

Forum 2001: National Compliance Assistance Providers Forum



**March 7 - 9, 2001
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Conference Summary

Table of Contents

OPENING PLENARIES March 7, 2001	1
Welcome and Introduction to Forum 2001	1
Keynote Address	2
Policymakers Perspectives: Where We Are Headed in Compliance Assistance	3
CONCURRENT SESSIONS: Compliance Assistance Planning & Priority Setting 1:15 – 3:00	
March 7, 2001	6
Session I: Identify Compliance Assistance Needs to Address EPA and State Air	
Priorities	6
Session II: Identify Compliance Assistance Plans and Priorities for Addressing	
Environmental Requirements in the Water Media	9
Session III: Identify Approaches to Address Compliance Assistance Needs and Priorities	
with States	12
CONCURRENT SESSIONS: Compliance Assistance Planning & Priority Setting 3:15 – 5:30	
March 7, 2001	16
Session I: Identify Compliance Assistance Needs to Address EPA and State Pesticides	
and Toxics Priorities	16
Session II: Identify Compliance Assistance Needs for EPA and State Multi-media and	
Sector Priorities	19
Session III: Identify Compliance Assistance Needs to Identify EPA and State Solid and	
Hazardous Waste Priorities	22
PLENARY SESSION March 8, 2001	25
Networking Through the National Compliance Assistance Clearinghouse – A Resource	
for Compliance Assistance Providers	25
CONCURRENT SESSIONS: Tools and Approaches for Delivering Compliance Assistance	
9:00 – 10:45 March 8, 2001	26
Session I: Integrating Compliance Assistance with Enforcement, Monitoring, and Other	
Approaches	26
Session II: Strategies for Developing and Delivering the “Right” Compliance Assistance	
Tools	30
Session III: Measuring the Results of Compliance Assistance Activities	34
Session IV: Challenges of Delivering On-site Compliance Assistance	38
REGIONAL ROUNDTABLES March 8, 2001	43
Region 1	43
Region 3	43
Region 5	46
Region 6	48
Region 7	50
Region 8	51

Region 10	53
CONCURRENT SESSIONS: Focusing Compliance Assistance Resources to Address Industry	
Needs 1:30 – 3:15 March 8, 2001	54
Session I: Strategies for Meeting Compliance Assistance Needs of Small Businesses and Small Communities	54
Session II: Strategies for Meeting Compliance Assistance Needs of Large Industrial Facilities	58
Session III: Strategies for Meeting Compliance Assistance Needs of Public and Private Institutions	61
CONCURRENT SESSIONS: Focusing Compliance Assistance Resources to Address Industry	
Needs 3:30 – 5:15 March 8, 2001	64
Session I: Identifying and Targeting Emerging Sectors for Compliance Assistance . . .	64
Session II: Creatively Leveraging of Resources for Compliance Assistance	67
Session III: Partnering with Community Groups and Compliance Assistance Providers	69
CLOSING PLENARIES March 9, 2001	
Industry Innovations in Compliance Assistance and Environmental Performance	72
Making Compliance Assistance Work: A Partnership Success Story	73
Practitioners Perspectives: The Next Generation of Compliance Assistance	75
Wrap-Up	77

OPENING PLENARIES March 7, 2001***Welcome and Introduction to Forum 2001***

James Edward, Director of EPA's Compliance Assistance and Sector Programs Division, began the 2001 National Compliance Assistance Providers Forum by thanking EPA headquarters staff, regions, states, and assistance providers for attending while noting the increase in attendance from last year. Mr. Edward described the Forum as an opportunity to discover new approaches for compliance assistance, to use the expertise of those attending the Forum to develop additional compliance assistance activities, and to nurture relationships with other compliance assistance providers.

Mr. Edward noted that it has been an exciting year in the area of compliance assistance with the development of the National Compliance Assistance Clearinghouse and the fiscal year (FY) 2001 Compliance Assistance Activity Plan and the ongoing work of the Compliance Assistance Advisory Committee. One of the goals of the Forum was to obtain stakeholder input regarding the various compliance assistance activities initiated by EPA. The sessions were designed to outline program priorities and to determine stakeholder needs to further develop compliance assistance plans.

Mr. Edward concluded his opening remarks by introducing Mr. Mike Stahl, Director of EPA's Office of Compliance.

Welcoming Remarks by Forum Co-sponsors

Mr. Stahl welcomed everyone to the Forum and introduced the Forum co-sponsors:

- Sylvia Lowrance, Principal Deputy Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance;
- Jane Nishida, Secretary of the Maryland Department of the Environment; and
- William Early, Acting Deputy Regional Administrator for EPA, Region 3.

Mr. Stahl spoke of the range of participants attending this year's Forum, noting that 25 states were represented along with private compliance assistance providers, the regulated community, and staff from EPA's regional, headquarters, and program offices. Mr. Stahl emphasized that the Forum builds on last year's Forum activities and would focus on implementing a strategy for advancing compliance assistance practices, leadership styles, and techniques.

Each of the co-sponsors introduced themselves and spoke briefly about the compliance assistance programs in their respective offices. Ms. Lowrance emphasized that the Forum provides an opportunity for the EPA to hear about regional and state priorities and tools, to network with other compliance assistance providers, and to build on accomplishments from last year. Ms. Nishida spoke about the State of Maryland's support for compliance assistance and cited specific activities that encourage compliance assistance such as the SmartGrowth program and economic development programs. Mr. Early from Region 3 remarked on the continuous

improvement of compliance assistance through infrastructure development, information sharing, and dedicated resources.

Keynote Address

Ms. Sylvia Lowrance, Acting Administrator of EPA's Office of Enforcement and Compliance Assurance, delivered the keynote address of the National Compliance Assistance Providers Forum. Ms. Lowrance took the opportunity to reflect on the business of achieving environmental results. She noted that EPA, state partners, and other stakeholders have made great progress in the past 35 years in advancing compliance assistance activities but that challenges remain, including:

- Maintaining the activities that support the clean air and water initiatives;
- Continuing to concentrate on the problem of air quality, especially with the growth in vehicle miles traveled;
- Addressing non-point source water pollution; and
- Leading the effort in site cleanup and Brownfields initiatives.

Ms. Lowrance discussed how EPA is beginning to take a new approach to environmental protection by viewing pollution holistically rather than creating media-specific solutions, while at the same time noting that environmental protection is gaining public interest. The Roper Poll, Green Gauge 2000, cited that 22 percent of the American public name air and water pollution as a top concern. It also was noted that most Americans would like to do more to support environmental protection but do not know what to do. In addition, one in every five people seeks information on environmental problems. Based on the increasing interest of the public regarding environmental protection, the environmental regulatory community needs to make choices about priorities and to address issues that enhance collaboration and produce environmental improvements, Ms. Lowrance said.

Ms. Lowrance then provided a snapshot of EPA's continuing approach to compliance assistance in the follow three areas:

- Where EPA is in advancing the practice of compliance assistance;
- How EPA is using compliance assistance; and
- Where EPA is in measuring results.

She noted that EPA is working to advance the practice of compliance assistance through its role as a "wholesaler" of compliance assistance information and resources. As a wholesaler, the Agency is striving to assist front-line deliverers of compliance assistance through the Compliance Assistance Activity Plan by tracking activities, preventing duplication of efforts, and promoting collaboration. In addition, EPA is developing tools, such as the National Compliance Assistance Clearinghouse, to allow stakeholders access to information about compliance assistance activities at both the federal and state levels.

The Agency is using compliance assistance to integrate planning and rule making, she said. Currently, EPA is developing strategies and conducting outreach to address risk. EPA also is

taking steps to promote compliance assistance measurement by undertaking measurement pilot projects in all 10 regions and by awarding grants to states for compliance assistance measurement activities. These regional pilots resulted in 77 percent of the targeted regulated community having an increased understanding of compliance. There continue to be challenges in the measurement arena.

Ms. Lowrance emphasized that the Forum is a step in the right direction to improve relationships and to work as a coordinated program. It is an opportunity for EPA, states, regions, local government, and other public and private providers to strengthen the network of compliance assistance providers.

Policymakers Perspectives: Where We Are Headed in Compliance Assistance

Mr. Stahl introduced the panel of presenters for the Policymakers Perspective session, which included representatives from federal, state, and local levels of government. The panel included:

- William Early, Acting Deputy Regional Administrator of EPA Region 3;
- Jane Nishida, Secretary of the Maryland Department of the Environment; and
- Richard Sustich, Assistant Director for Research and Development for the Metropolitan Water Reclamation District of Greater Chicago.

The first panelist to speak was Mr. Early. He focused his discussion around EPA's evolving approach to environmental protection. Compliance assistance in the past was provided to regulated entities using a single media approach. However, factors in the arena of environmental protection have changed and regulators are beginning to deal with multi-media issues. In order to develop this multi-media approach to environmental protection, Region 3 has partnered with states through workshops and Web sites. Region 3 also has begun a strategic approach to compliance assistance planning by integrating measurement, enforcement, and assistance. Throughout this process, there have been some lessons learned, which have included: providing information on the Internet, easy-to-read materials, and checklists; and utilizing networking to disseminate the message.

The second panelist to speak was Ms. Nishida. She accentuated the complimentary nature of compliance and enforcement, describing compliance assistance as the "message" that supports the integrity of enforcement. She discussed the need to develop compliance assistance in such a way that it answers the question of "What's in it for me?". Ms. Nishida highlighted the need to measure the value-added of compliance assistance to further its development. Additionally, she noted that state and federal partnerships are necessary to meet new challenges in environmental protection. Specific areas where the State of Maryland is supporting compliance assistance are:

- The SmartGrowth program;
- Lead abatement;
- Pollution prevention; and
- Environmental performance partnerships.

The final panelist to speak was Mr. Sustich. He discussed the activities of the Compliance Assistance Advisory Committee (CAAC) that was established in 1999 by the EPA Administrator. The committee is the process of developing a report for the new Administrator to address the following questions:

- How well is the National Compliance Assistance Clearinghouse doing and what else do we need it to do?
- How can we institutionalize compliance assistance in federal and state governments?
- What activities are coming up in the area of compliance assistance?
- What are the compliance assistance priorities for the upcoming year?

In addition, Mr. Sustich reported that the CAAC is providing the following recommendations in its report: integration of compliance assistance; a focus on appropriate outputs and outcomes; and optimization of products for the upcoming year. Mr. Sustich then added that from the local perspective, compliance assistance behavior has been influenced by providing money and assistance to the front-line staff.

Following the presentations from the policymakers, the audience participated in a question and answer session. The questions asked of the panel and the answers provided are found below:

Should the compliance assistance coordinator in each region be a senior-level staff person?

Yes, the coordinator should be a senior-level staff person because it can be a big challenge to work with regional counterparts to address multi-media issues.

How can we use electronic reporting to enhance compliance assistance?

There are a number of issues associated with effective electronic reporting, including data quality and security issues. In addition, resources are limited at the state and Federal level to deal with some of these issues and thereby, make electronic reporting a valuable tool for compliance assistance. However, the states [through the Environmental Council of States (ECOS)] are holding a conference about electronic reporting to develop a policy in electronic reporting and to look holistically at modernizing information systems and the reporting process.

Can you address the issue of aging information systems in small communities?

Many small communities do not have the resources to upgrade information systems; however, they can address this problem to some extent through the negotiation of consent orders. In addition, Administrator Whitman has made rural problems a priority in her administration and is committed to working with local programs to identify solutions.

How can we ensure the quality of compliance assistance providers? How can the government obtain people to serve in this capacity?

As we go forward, we need to become knowledgeable about the provider community and the skill sets they offer. For the most part, service providers learn on the job. There is no mechanism to develop skill sets. One idea might be to have Internet-based compliance

assistance training. We should definitely have continuous relationships with the private service providers. It also would be useful to partner with universities to spread the knowledge at the state level.

How do you see the role of the inspector? Should they wear two hats—that of the compliance assistance provider and the enforcer?

The audit report provided by the inspector identifies problems with compliance. The inspector should be the first line of compliance assistance. There is a debate within EPA about the role of the inspector because there are obviously some things that the inspector cannot do, but it is an opportunity to provide information. The role of the inspector needs to be analyzed on the national level.

Mr. Sustich, do you communicate your success stories in trade publications?

We try to publicize our information in workshops, magazines, and other forums to describe a problem and an approach that gets results.

How can you rationalize using public funds to provide compliance assistance when the regulated community has the money to buy these services from the private sector? Shouldn't there be a threshold for financial need of the regulated entity?

Public funds are used to collect and disseminate information and the government cannot control who uses that information. EPA, in particular, serves as a wholesaler of compliance assistance information and relies on state governments to target small businesses and others that might have more specialized needs and cannot easily buy private sector services.

We need to set goals and then determine the measures. The commitment to measurement has to be linked to goals and understanding the problem.

It is a challenge to get the data to measure progress. This must be balanced with priorities and monetary investment and is an evolving science. It is important to make a commitment and then figure out how you are going to get the information.

Regarding the partnership agreement between EPA Region 3 and Maryland, participants asked panelists to describe the major components of the agreement and describe its results.

Region 3 worked with the State of Maryland to evaluate accomplishments and issues of compliance assistance programs. We partnered to address the needs the state identified and gave the state flexibility to address the issues in the most appropriate way. The program resulted in stronger communication and coordination between the state and region regarding compliance assistance activities.

Will there be a way to encourage companies to comply by the use of tax benefits?

There is not much activity related to this topic on the federal level. However, the Global Environmental Technology Foundation (GETF) is developing a report recommending incentives with tax proposals. The following is an Internet site that lists all available tax incentives:

www.getf.org/ietotech.

CONCURRENT SESSIONS: Compliance Assistance Planning & Priority Setting 1:15 – 3:00 March 7, 2001***Session I: Identify Compliance Assistance Needs to Address EPA and State Air Priorities***

The purpose of the session was to discuss compliance priorities and compliance assistance activities in air programs and to examine current and future compliance assistance resources for addressing those priorities. The facilitator for the session was Doug Sarno of The Perspectives Group.

The first presenter was Scott Throwe of EPA's Office of Compliance. He discussed the EPA's Adopt-a-MACT (Maximum Achievable Control Technology) 2000-2001 Office of Enforcement and Compliance Assurance (OECA) Memorandum of Agreement Priority, whereby OECA requires the regions to adopt one to two MACT per year in order to leverage federal and regional resources to develop compliance assistance and compliance monitoring tools. The goal of the program is to develop, distribute, and promote MACT implementation tools through a variety of methods, including the following Web sites: Compliance Assistance Clearinghouse Web site (www.epa.gov/clearinghouse) and the Unified Air Toxics Web site (www.epa.gov/uatw). He also spoke of the use of compliance assistance centers, which develop partnerships with hundreds of thousands of small and mid-sized businesses to identify applicable federal environmental regulations and improve compliance for air issues, as well as multi-media concerns.

The second presenter was Gil Wood of EPA's Office of Air Quality Planning and Standards (OAQPS). The Office's Program Implementation and Review Group has focused on resolving critical implementation issues, preparing tools, and measuring program progress and effectiveness. OAQPS developed over 50 MACTs and will develop over 50 more in FY2001-2002. Mr. Wood discussed the tools OAQPS will be focusing on, which include: plain language summaries; applicability flow charts; example reports; brochures; and inspection checklists for the MACT standards with the highest priority implementation assistance needs based on customer needs assessments. Gil noted that the priorities include significant input from the State and Territorial Air Pollution Prevention Administrators and Association of Local Air Pollution Control Officials via a survey of their member needs. Also, OAQPA is interested in additional input from the Forum attendees.

The third presenter was Lew Felleisen of EPA Region 3. Region 3 must coordinate with states and headquarters to implement regulations. In his presentation, he outlined the following compliance assistance tools that Region 3 found to be most helpful:

- Trade Associations—Trade associations are an excellent way to receive information about the needs of a particular sector. They also provide a good link to industry acting as a neutral third party entity.
- Trade Publications—Free trade publications often are distributed by trade associations or developed by publishers through the sale of advertising space. EPA found success in

- dealing directly with the editors of these publications, providing them information for articles and features. Trade publications also are a good way to disseminate information to the competitors in an industry regarding compliance and enforcement actions.
- Non-governmental Organizations (NGOs) in States to Provide Information and Assistance—NGOs were noted to be quite helpful in information dissemination. States are key to developing successful compliance assistance tools because they often have much more experience than the federal government in developing compliance assistance activities.
 - Local Papers—Publicizing activities represents a good means of generating positive public relations/perceptions within a community for a compliance assistance program.

The final presenter was Frank Courtright of the Maryland Air and Radiation Management Administration. He highlighted Maryland's Air and Radiation Management Administration's Compliance Assistance Program, which focuses on developing and distributing information on new regulations and complex requirements. A special emphasis is placed on targeting small sources, which tend to be at a disadvantage due to their size, comparative lack of resources, and often limited sophistication regarding regulatory matters. He highlighted the Administration's Stage II Vapor Recovery Program and its work providing compliance assistance to the dry cleaner sector. Key assistance activities included meeting with and coordinating activities with trade associations and working to improve recordkeeping and paperwork activities for small sources.

Following the presentations, an EPA participant from Region 5 expressed concern over how best to proceed with enforcement actions resulting from reporting and recordkeeping violations, which result in limited enforcement consequences. She noted that enforcing such actions takes time and resources, and indicated that such issues are often seen as lingering administrative issues rather than as emissions violations. Mr. Courtright acknowledged the problem of limited resources and a lack of recourse in such situations. He suggested that a good course of action would be to work through partnerships with trade associations to get the word out about the importance of addressing these paperwork issues. Mr. Throwe added that compliance assistance and enforcement issues cannot be separated in such situations. He suggested that efforts be made to publicize high profile enforcement cases to demonstrate that there are consequences for not complying with these reporting regulations.

During a later breakout group discussion, several participants discussed methods for solving the problem of how to deal with these paperwork violations that, while not emissions violations, still need to be addressed. They suggested developing a field ticket or fine to assess against paperwork violators. The idea was to develop a penalty for violators without creating a huge violation requiring lengthy legal and administrative proceedings to resolve.

After listening to the presentations, the participants broke into discussion groups to discuss the compliance assistance needs of states, localities, and private compliance assistance providers, focusing on the specific needs of air programs. They outlined the specific tools and

opportunities for collaboration that exist to respond to these needs. The participants addressed the following questions:

What are the compliance plans and needs of state and local governments and private compliance assistance providers?

- Several participants discussed the benefit of the state approach to compliance assistance. It was touted as being a more hands-on approach when compared to the federal plan for wholesale information distribution. There was general agreement that it is crucial for compliance assistance providers get out into the field and work directly with the sectors and communities for compliance assistance to be effective.
- Numerous participants expressed appreciation for the federal efforts but felt that EPA should do more.

What other problems were not identified by panelists as priorities that need compliance assistance tools?

- Several participants emphasized that more effort needs to be taken to provide permitting instructions to the small business community, given the limited resources available to small businesses. Often these companies are intimidated by the players and swamped by the complexity of the regulations and permitting requirements involved.
- Some participants noted that while the presenters spoke a great deal about MACT, numerous air infrastructure/procedures information needs exist in addition to the information needed on individual MACT (general provision requirements for monitoring, recordkeeping, and reporting; testing requirements; procedures for requesting alternatives; procedures for determining potential to emit; and obtaining states permits to keep emissions below the MACT applicability cutoffs) that also need to be addressed. However, it was noted that the collaborative effort used to implement the dry cleaners MACT standard represented an excellent example of partnering between EPA and the small business community.

What are the opportunities for collaboration on compliance assistance activities, technical assistance activities, and other outreach activities?

- There was general consensus among participants that partnering with associations is very important in developing regulations. These associations better understand the needs of the regulated community and can be a valuable proponent of regulators.
- The California Air Resource Board and its program using comic books to address/explain regional regulatory issues were cited as a good example of an innovative outreach activity. These comic books, addressing some 20 different regulatory categories, were translated into numerous languages to reach a broad audience. A participant did note that while an innovative program. This tool does not provide a feedback loop to measure whether it is effective.
- Various participants cited newsletters as a good method for distributing information on compliance assistance programs. A newsletter editor, who was participating in the discussion noted that compliance assistance articles did not sell copy; however,

information on enforcement issues and articles involving companies that the EPA has targeted for enforcement action do. He added that owners and operators, particularly in the small business sector are uninterested in compliance issues until they become an enforcement issue. He also suggested publicizing environmental stewardship awards to demonstrate programs and approaches that are working.

- It was recommended that compliance assistance programs and innovations be built into grant requirements. One suggestion was to have compliance assistance inspections become a mandatory commitment for receiving grant funding.

Session II: Identify Compliance Assistance Plans and Priorities for Addressing Environmental Requirements in the Water Media

The purpose of the session was to discuss compliance priorities and assistance activities in water programs and the current and future compliance assistance needs that may result from these priorities. The session coordinator was Walter Brodtman of EPA's Office of Compliance. The facilitator for the session was Don Greenstein of the Marasco Newton Group.

Mr. Brodtman began the session by introducing each of the panelists and outlining the goals of the session, which were to identify:

- Plans and needs of compliance assistance providers;
- Tools needed to meet these needs;
- Other priorities; and
- Opportunities for collaboration among state, federal agencies, and compliance assistance providers.

The first panelist to speak was Herb Sachs of the Maryland Department of the Environment.

Mr. Sachs highlighted the four industrial sectors that the Maryland Business and Industry Compliance Assistance Program (MBICAP) for which the program developed compliance assistance materials in the preceding year, including:

- Ready mixed concrete;
- Marinas;
- Aggregates; and
- Homebuilding industries.

The materials that were developed included videos, PowerPoint instructional guides, and other training materials. There were funds remaining after materials for the above sector. These additional funds were used to start another compliance assistance project – a pilot project to determine if they could attain compliance in the earth moving/construction business through voluntary initiatives.

The second panelist to speak was Mr. Al Havinga of EPA's Office of Compliance. He discussed the role of compliance assistance in managing and regulating concentrated animal feeding operations (CAFOs) within the Office of Enforcement and Compliance Assurance. Currently,

EPA regulates about 20,000 feedlots under the Clean Water Act (the waste is disposed of on the land and generally becomes runoff).

The goals of the CAFO program are: to design and implement a permitting system; to inspect all facilities by 2003; and to develop a CAFO compliance assistance strategy. Current compliance assistance efforts include:

- A nutrient management planning checklist for inspectors and farmers;
- An agricultural compliance assistance center;
- An environmental curriculum;
- An inspector compliance assistance package;
- CAFO revised regulations (in language that is understood by farmers); and
- Whole farm training.

The CAFO Program faces many challenges, including:

- The diverse number of facilities;
- The CAFO landscape – litigation, technology, and multi-media approaches; and
- Coordinating with compliance assistance providers.

The third panelist was Richard Kuhlman of EPA's Office of Waste Water Management. Mr. Kuhlman briefly discussed the various projects being undertaken by the Municipal Support Division. Current projects include:

- National onsite demonstration projects;
- Wastewater operator training program;
- Rural community assistance program;
- National environmental training center for small communities;
- National small flows clearinghouse;
- National onsite demonstration projects; and
- Tribal assistance.

There is a growing gap between the investment in water and wastewater infrastructure and the infrastructure that is needed. He predicted that this gap will continue to grow over the next two decades. Mr. Kuhlman also spoke briefly of how the decentralized treatment of water and wastewater in municipalities is leading to failing systems.

The final panelist to speak was Ms. Debbie McCray of EPA's Office of Ground Water and Drinking Water. The mission of the Drinking Water Utilities Team is to enhance public health protection by assisting water systems to develop and maintain the technical, financial, and managerial capacity to consistently deliver safe and affordable drinking water.

The Drinking Water Protection Division's priorities for FY 2001 are:

- New drinking water public health standards and program implementation;
- Prevention of contamination of the nation's drinking water supplies;
- Information collection and management use;

- Program financing; and
- Outreach.

Ms. McCray then discussed the compliance assistance services that the Drinking Water Protection Division provides, which includes: technical assistance; training; financial assistance; regulatory flexibility; operator certification; source water protection; and consumer awareness. The tools used to support these services include brochures, fact sheets, workbooks, case studies, handbooks/guidance, and quick reference guides.

Following the presentations, there were no questions from the audience. The participants then broke into discussion groups to brainstorm plans and priorities for addressing environmental requirements in the water media. The problems and recommendations/needs identified are as follows:

Problems identified:

- A need exists to develop treatment technology to remove salt from soil that results from hard water treatment processes (e.g., water softeners);
- There is no follow up with facilities after permits are issued – better customer service and outreach is needed;
- Incomplete or unclear permits are difficult to enforce;
- A problem exists with exfiltration – flows not getting to plants; and
- There is a total maximum daily load (TMDL) funding gap.

Recommendations/needs identified:

- Clarification of the role of EPA versus states;
- Conduct more outreach on maintenance and asset management (CMOM);
- Promulgating a methodology for PCBs;
- Real-time bacteria analysis;
- Guidance for small communities on wastewater facilities;
- Stronger communication;
- Balance between areas of attainment and non-attainment;
- Look at non-regulatory approaches – partner with industries to find out issues and give them a “carrot” to encourage and improve release of information;
- More funding to improve marketing of compliance assistance;
- Develop a core group of stakeholders that support compliance assistance through forums and other events;
- Develop a different approach to compliance where contractors are leveraged; and
- Checklists to translate regulations and make them easier to understand.

Session III: Identify Approaches to Address Compliance Assistance Needs and Priorities with States

The purpose of the session was to identify existing tools used to plan for compliance assistance at the state and federal level; to identify barriers that prevent coordination and collaboration in the planning process; and to identify possible opportunities for enhanced coordination and collaboration between states and the federal government around compliance assistance planning and implementation. The facilitator for the session was Pat Tallarico of the Marasco Newton Group.

Joanne Berman of EPA's Office of Compliance began the session by providing an overview of the *Compliance Assistance Activity Plan Fiscal Year 2001* (draft final February 2001) and describing the development process associated with the FY 2001 Plan, which is becoming one of the primary tools that EPA uses to plan its compliance assistance priorities. She discussed how the activity plan began as a data collection exercise within the Agency to identify the compliance assistance projects being undertaken across the Agency. However, the Agency has realized that the Web-based tool (a database) used to develop the plan and the process by which the plan is developed are valuable tools to help the in Agency's future planning efforts. Currently, the FY 2001 activity plan reports 386 compliance assistance programs/projects that EPA is planning to do during FY 2001. EPA also has formed an internal EPA workgroup with regional and headquarters representatives to help coordinate and elevate compliance assistance activities across the Agency.

Ms. Berman identified three common barriers to establishing a comprehensive plan. These barriers include: cultural/institutional issues; organizational barriers; and limited resource availability. She also discussed the drivers of compliance assistance that will help to elevate compliance assistance within state and federal institutions.

The second panelist to speak was Angela Baranco of EPA Region 9. Ms. Baranco discussed the region's value-added aspects to compliance assistance. These efforts began with the development of a strategy to determine what their role should be as a federal agency in regard to providing compliance assistance. Customers were surveyed to identify their issues and needs. Through these efforts, Region 9 determined that its role with respect to compliance assistance was to:

- Provide resources;
- Partner; and
- Build a strong foundation for other agencies to build on.

During this process, the region also discovered that the needs of the customers were not being met due to a lack of continuity between state and federal regulations. Out of meetings and workshops came a comprehensive compliance document for the automotive services industry that included state and federal requirements, pollution prevention, and environmental management systems.

Following her presentation, a participant asked whether community groups were included in the planning process. Ms. Baranco indicated that communities were not included, but that in the future they would try to include them in the planning process.

The third panelist to speak was Mary Dever of EPA's New England Region. She explained that her region provides a sector-based approach to compliance assistance. She also identified two key planning groups that are used in EPA's New England Region to help identify and plan for compliance assistance activities, which are: the State and Federal Enforcement Group; and the Northeast Pollution Prevention Roundtable. Both of these groups performed some aspects of compliance assistance, and Ms. Dever indicated that she did not see a need for a separate group to deal solely with compliance assistance. She also did not wish to recommend separate planning cycles for compliance assistance and suggested that compliance assistance is only one element of a set of priorities. She suggested that EPA work toward more efficiency in communication between states.

Ms. Dever briefly discussed the New England Region's interpretation of the definition of compliance assistance. The region does not think in terms of compliance assistance with a regulatory hook. Rather, compliance assistance is thought of as being related to compliance but also including pollution prevention, best management practices, innovation opportunities, and regulatory flexibility. She also stressed the importance of aligning the timing of EPA/Performance Partnership Grants/Memorandum of Agreement negotiations and funding schedules to avoid putting unfunded plans on the table. Ms. Dever still sees the an opportunity to partner more effectively with states and others to focus resources to enhance compliance assistance planning.

The final panelist to speak was Robert (Bob) Kaliszewski of the Connecticut Department of Environmental Protection. He discussed Connecticut's three-step process for strategic planning: developing a strategic plan; building action plans around the strategic plan; and building budget plans around the action plans.

Mr. Kaliszewski also discussed Connecticut's performance partnership with EPA New England. Under their past agreement, the Connecticut Department of Environmental Protection (DEP) came up with 10 priority areas, and one of those areas is compliance assurance. He explained that the Connecticut DEP continues to use the term compliance assurance because the agency does not separate out compliance assistance from enforcement. Compliance assistance is seen as an integral part of achieving compliance and improving environmental performance, which could include enforcement activities and innovation opportunities. He explained that Connecticut looks at compliance assurance from two perspectives: sector-based approaches; and improvement-based approaches.

Mr. Kaliszewski discussed measuring compliance assistance and how it is possible to measure what drives people to do something differently. Connecticut is still focusing on measuring environmental outcomes, but it cannot seem to get away from bean counting (e.g., enforcement

numbers, penalty dollars, etc.). He explained that the Connecticut DEP held discussions across their agency regarding compliance assistance and realized how many different compliance assistance activities were occurring and how some of these activities overlapped one another in targeting the same sectors. Based on these discussions, the state was able to focus on key sectors and take advantage of the resources that were out in the field to accomplish things that would otherwise not have been done.

The Connecticut DEP is in the process of shifting from counting “beans” to measuring performance results. Mr. Kaliszewski noted that under their general permits project, key sectors have been identified that have been notorious for noncompliance. After investigating the cause of this noncompliance, it was found that people were not reading the permit and as a result were not complying. After identifying such a root cause of noncompliance, the state will perform outreach and compliance assistance activities. After these efforts have been exhausted, the state will follow up with enforcement action and then re-evaluate.

Finally, Mr. Kaliszewski asked EPA to listen, remain flexible in funding and reporting requirements, and institute effective problem solving techniques.

Following his presentation, a participant asked Mr. Kaliszewski how often he reached out to the private sector. He indicated that the DEP currently is looking for interested partners and plans to get trade associations involved.

After the presentations were completed, the facilitator recapped the planning tools that the panelists had mentioned, which included:

- EPA’s Compliance Assistance Activity Plan and associated planning process;
- Dialogues;
- Other related organizations (e.g., enforcement groups, pollution prevention groups);
- Outreach to the regulated community;
- Inventories of activities;
- Reviews; and
- Performance partnership agreements, performance partnership grants, and memorandums of agreement.

Participants added the following as possible tools to use in planning compliance assistance priorities:

- Innovations;
- Targeted sectors for enforcement;
- Compliance rates and enforcement actions; and
- Toxics Release Inventory information.

The group also mentioned that a risk-based approach to compliance assistance may be difficult from a scientific perspective but may be beneficial. Some members of the group mentioned that they were trying to implement a comparative risk model.

Some of the questions that were raised during the discussion are included below:

How does risk reduction fit into planning?

Risk reduction should not be focused on compliance assistance alone but environmental protection, which makes effective risk-based approaches a difficult science.

How do you distinguish compliance assistance from enforcement during an inspection?

This is a difficult issue, especially because in many instances, the inspector has to wear both hats. The group agreed that this topic was better addressed in other sessions.

In closing, the facilitator asked if state participants had any additional comments they wanted to convey to EPA. These comments included the following:

- Pollution Prevention Incentives for States (PPIS) programs are begging for money, and EPA needs to redirect funding so that the PPIS have more resources to do outreach and training.
- The Office of Compliance should request special funding from the Administrator for compliance assistance.

CONCURRENT SESSIONS: Compliance Assistance Planning & Priority Setting 3:15 – 5:30 March 7, 2001***Session I: Identify Compliance Assistance Needs to Address EPA and State Pesticides and Toxics Priorities***

The purpose of the session was to gain knowledge of EPA and state compliance assistance priorities and activities and identify compliance assistance needs that result from these priorities. The facilitator for the session was Pat Tallarico of the Marasco Newton Group.

At the beginning of the session, participants were asked to share what they wanted to get out of the session. They indicated the following areas of interest:

- Hearing about pesticide and toxics priorities;
- Ensuring that people that are trained actually perform in the way that they were trained;
- Getting information to small businesses;
- Coordinating and integrating priorities;
- Assisting communities;
- Providing worker protection and cross-media integration of training;
- Providing compliance and training for agricultural pesticide handlers;
- Hearing about appropriate pesticides handling;
- Hearing about enforcement priorities;
- Identifying what is on the horizon; and
- Providing additional information about toxics.

This session was structured around these areas of interest.

The first panelists to speak were Rick Colbert of EPA's Office of Compliance and Richard Pont of EPA's Office of Pesticide Programs. They began the session by sharing compliance assistance priorities in the pesticides area. These priorities included:

- Worker protection standards;
- Pesticide product reporting/compliance by farmers and other applicators;
- More efficient uses of existing chemicals and more precise uses of chemicals;
- Pollution prevention, replacement products and how to use them properly;
- Problems surrounding the use of chemicals by homeowners;
- Applicator compliance in poorer communities;
- Technical assistance;
- Impact of e-commerce on pesticide sales and distribution and its impact on compliance assistance providers; and
- Bio-technology.

Mr. Pont discussed some mechanisms currently being used to address these priorities, including: networking with external groups including producers, trade associations, and the academic community; revising the Office of Pesticides Programs Web site to make it more user friendly;

and focusing on issues of current interest such as the Worker Protection Standard and the Food Quality Protection Act.

Mr. Colbert expanded on the issue of worker protection and identified language barriers as one of the primary issues they face in delivering effective training. Another challenge he noted involved getting workers to continue to read labels. In solving these problems, it was recommended that EPA establish a mechanism for the employer to have a network of trainers and to provide more access to information through frequent communication.

Mr. Colbert also mentioned that the only way that EPA can ensure that people who are trained are performing their jobs correctly is through national certifications.

The second panelist was Dave Fredrickson of the Wisconsin Department of Agriculture, Trade, and Consumer Protection. Mr. Fredrickson discussed Wisconsin's initiative to become a full service provider of compliance assistance. He discussed the Uniform Enforcement Guide, which clarifies their regulatory philosophy. He noted that the success of their program depends on voluntary compliance because of the large amount of farmers, municipalities, and small businesses that are covered by their regulations. He emphasized the importance of realistic rules and regulations that do not overwhelm the regulated community and make it clear what is expected of them. He noted that Wisconsin is a strong believer in progressive enforcement in which penalties are increased in a step-wise fashion. He also explained that they re-evaluate their program goals frequently.

Mr. Fredrickson discussed the effect of the Food Quality Protection Act, especially as it pertains to non-agricultural uses of pesticides. He noted that Internet sales and distribution of chemicals by WalMart and other retail stores has expanded the community his office communicates with significantly. He further explained that the erosion of the farm cooperative presents a new set of challenges and problems of scale. When the cooperatives served as the principal distributor of pesticide products, people knew what to expect from pesticide use, but with the advent of e-commerce and non-agriculture distributors, farmers and other customers do not have access to quality information.

Following the presentation, a participant asked whether EPA was aware of any long-term (chronic effects) information on pesticides. The panelists indicated that the Agency is involved in several studies. There is a National Institute of Occupational Safety and Health (NIOSH) study being performed with eight states and EPA to survey 90,000 farm sites and workers looking at patterns of chronic illnesses. Federal agencies do not, however, have a national pesticide recording system. Only when pesticides go through the re-registration process are risk assessments performed. Panelists also mentioned that the U.S. Centers for Disease Control and Prevention is launching a study to evaluate the impacts of environmental exposure to pesticides and other chemicals. The study will begin *in vitro* and continue until subjects are 21 years of age. Twenty-five chemicals each year will be added to the study.

Another participant asked where people can get health and environmental information on chemicals used in commercial products. The panelists explained that there have been no basic screening levels performed on most of the chemicals that are in products we use everyday, let alone long-range tests. However, the chemical industry recently has been asked to perform basic screening tests, thus in the next couple of years we will have some data, which will allow us to sort chemicals better than we have in the past. EPA actually knows more about “new” chemicals than products that have been on the market for years because of the screening process that they must undergo before entering commerce. EPA is trying to close this gap through the “High Production Volume” voluntary effort.

Participants asked if EPA was doing any compliance assistance for landscapers on beneficial landscaping, given new rules that require beneficial landscaping, especially at colleges and universities. The panel did not know of any such efforts but felt that this may be an area that is in need of some form of compliance assistance.

The panel then addressed the issue of how to get information to small businesses. They identified the following approaches that have been effective:

- Assessing EPA on-line centers, such as the Agriculture Compliance Assistance Center;
- Networking;
- Putting information in trade organizations’ newsletters;
- Partnering with small business trade associations, states, and the academic community;
- Using small business development centers; and
- Encouraging states/regions to get out the information to their customers because it is difficult for EPA to do at the national level.

The third panelist to speak was Lin Moos of EPA’s Office of Pollution Prevention and Toxic Substances. Ms. Moos explained that her program office focuses on national program chemicals [e.g., poly chlorinated biphenyls (PCBs), asbestos, and lead]. Over the past several years, there has been a shift in resources away from more mature programs (e.g., PCBs and asbestos) to the lead program. According to Ms. Moos, the Agency is certifying renovators and establishing and informing realtors and others about requirements of disclosure before home sales and apartment rentals. There also is a significant outreach program underway including staffing trade shows and reaching out to real estate agencies. EPA is working with the Department of Housing and Urban Development on an incentive program that includes opportunities to review leases and reach out to the National Association of Realtors. Ms. Moos also discussed an innovative approach for conducting outreach to Spanish-speaking populations. EPA was able to work with a school that provided English as a second language classes, providing materials about lead issues to be used as course materials. Thus, while students were learning English, they were also learning about lead exposure.

Following the presentations, the group briefly discussed the Agriculture Compliance Assistance Center. They noted that the centers are a powerful tool, but they are only useful if you know what you need. The group recommended doing more on-the-ground compliance assistance.

Dave Kling of EPA's Office of Pollution Prevention and Toxics discussed the need for compliance assistance to incorporate three basic principles – better alignment of voluntary programs with priority compliance sectors; better integration of compliance assistance and technical assistance within EPA; and better application of tools to promote compliance, particularly using states and other efforts as models.

One participant asked how EPA is dealing with ground water and drinking water contamination. The panelists replied that the Office of Pesticide Programs does not deal directly with that issue because it is within the purview of another office, but agreed that the Agency needs to look at this issue more holistically to avoid serious problems in the future.

Session II: Identify Compliance Assistance Needs for EPA and State Multi-media and Sector Priorities

The stated goal of the session was to identify issues/opportunities and/or provide suggestions to EPA on methods to identify compliance assistance needs. It was intended for participants to discuss compliance priorities and compliance assistance activities for multi-media programs and to examine the current and future compliance assistance resources available to address these priorities. The facilitator for the session was Doug Sarno of The Perspectives Group. The coordinators for the session were John Mason and Walt Derieux of EPA's Office of Compliance and Kathleen Bailey of EPA's Office of Policy, Economics and Innovations. John Mason introduced Bruce Weddle of EPA's Office of Enforcement and Compliance Assurance and Ken Johnson of the Georgia Tech Research Institute, who participated in the session as audience resources, lending their experience and expertise to the discussion.

The first presenter to speak was Connie Musgrove of EPA's Office of Enforcement and Compliance Assurance (OECA). She spoke of the commitment made by OECA and the regions to study compliance assistance across regional and state boundaries, looking across sector and media lines to gain a multi-media perspective on compliance. She discussed the following approaches to identifying sector and multi-media compliance assistance needs:

- Self-disclosure by companies;
- Study the results of compliance monitoring across a sector to gain a better perspective of the problems and issues that exist in a given sector;
- Review targeted studies of databases, historical information, and inspectors reports to gain a historical perspective on where the compliance problems exist/have occurred; and
- Target programs for new requirement regulations, especially to groups/companies that have not been in the regulatory network previously.

Connie Musgrove then discussed methods to address these compliance needs, which included: providing direct mailing; developing publications and guidance for regulatory information; working with trade associations to get information out to the various sectors; holding workshops and forums; and utilizing Web sites and dedicated centers.

The second presenter to speak was Carolyn Covey Morris of the Synthetic Organic Chemical Manufacturers Association (SOCMA), an association of specialty chemical manufacturers. The association works to provide regulatory compliance information to the specialty chemical manufacturers sector. She began by describing the specific needs of the community she represents, which are batch manufacturers dealing with a wide variety of waste streams and emissions. Many are small companies handling large volumes of waste that are subject to a great deal of reporting requirements. She described a study developed by SOCMA, working in conjunction with OECA to determine where SOCMA members are having issues in regard to compliance and enforcement actions. Through the study, SOCMA determined that most of the compliance violations leveled against SOCMA members were leveled against the large petrochemical companies it represents. She noted that as a result of these findings, it was clear that compliance history alone cannot provide the information that SOCMA needs to identify the compliance assistance needs of its companies. She finished by discussing several joint projects between SOCMA and EPA. SOCMA held workshops for EPA to educate the Agency on the compliance challenges faced by the batch processing community, and OECA held workshops for SOCMA members explaining various multi-media compliance issues.

The third presenter to speak was Robert Benson of EPA's Office of Policy Economics and Innovation. He spoke of the need to expand the definition of compliance assistance to encompass all technical assistance, environmental management system, and pollution prevention needs of a company. He recommended using a sector approach but cautioned that the entire sector must be studied to generate information and ideas from all affected parties. He explained that all traits, trends, drivers, and barriers of industry need to be evaluated in order to get a thorough picture of the sector. Finally, he stressed the need to field test new ideas and leverage existing programs. He finished by outlining a planned program that will connect OECA tools and mechanisms to a federal/state communications network for compliance assistance, which will result in sharing existing compliance assistance tools and information with a larger audience.

The final presenter for the session was Catherine Fox of the Georgia Tech Research Institute. She described the Institute's focus, which brings environmental and occupational safety and health information to: federal, state, local, and tribal governments; small to mid-sized businesses; and educational institutions. She spoke of the benefit for small business to have EPA compliance and U.S. Occupational Safety and Health Administration issues covered in tandem and discussed the benefit of being a neutral third party to whom business can go to for information without the distrust that often exists between the business and regulatory communities. She outlined various Georgia Tech Research Institute compliance programs, including the Waste Reduction and Environmental Compliance program, which assists small to mid-sized businesses in Georgia with hazardous waste, waste water, air, emergency response, onsite confidential audits. In addition, she outlined the sector tools that have been developed by the institute, which include an eco-diagnostic software tool for the manufacturing industry that lays out which rules apply to a given industry and determines how a particular company measures up.

Following the presentations, there were no questions from the audience. The participants as a group then brainstormed issues, opportunities, and suggestions for EPA on methods to identify compliance assistance needs. The participants addressed the following questions:

What is the most effective way of identifying compliance assistance needs for multi-media and sector priorities?

- A participant from the Michigan Department of Environmental Quality suggested using hotlines as a method to identify compliance needs. She recommended that frequently asked questions (FAQs) could be identified and used to determine what information needs to be projected to the audience. This information could then be disseminated through articles, FAQs published on Web sites, and trade associations.
- Karin Leff of EPA Headquarters noted that there has been a push to identify compliance issues within sectors. She noted that this sector-based approach is very holistic and resource intensive in nature. She questioned how EPA, from a national perspective, could start culling out particular sector needs. Several participants suggested that an effective means of identifying the compliance assistance needs that exist within a given sector is to speak directly with the inspectors. There was some concern expressed that state inspectors focus on many different issues, which was likely to skew the data on a national level. There was some discussion over the best method for getting this type of information from the states and localities to EPA Headquarters. The Regional offices were identified as the middleman in such an activity. Robert Benson added that he felt that the sector-based approach to identifying compliance assistance needs was cost-effective, because it required EPA to work directly with Industry to identify their needs, saving money in the long run.
- Karin Leff also asked participants to discuss the best method to identify appropriate compliance assistance tools within a given sector. Several participants noted that this was a media-specific response and no single answer would suffice.
- Carolyn Covey Morris cautioned against some of the limitations of using a purely historical approach to identifying compliance priorities, noting her experience with the SOCMA study. A participant added that when studying historical data relating to violations within a particular sector, many companies negotiate down their fines, creating a skewed vision of the compliance activities, especially when dealing with larger companies.

What is the most effective method for providing compliance assistance to industry, states, and communities?

- There was discussion over how to better include local and community feedback/input for compliance assistance issues. It was noted that local groups focus on issues that might not necessarily be of a national concern. In working with states and trade associations to implement regulations, there has been some success working with community groups. Sector networks are valuable tools for getting regulatory information out to local groups or to link these groups to other resources that exist. There was discussion over needing

to provide resources to community groups so that they can participate in the compliance assistance tool development process.

Session III: Identify Compliance Assistance Needs to Identify EPA and State Solid and Hazardous Waste Priorities

The purpose of the session was to discuss compliance priorities and assistance activities in solid and hazardous waste programs and the current and future compliance assistance needs to address these priorities. The session coordinator was Gregory Fried of EPA's Office of Compliance. The facilitator for the session was Don Greenstein of the Marasco Newton Group.

Mr. Greenstein began the session by introducing each panelist and by outlining the following questions that were to be addressed during the session:

- What are the compliance plans and needs of state government, local government, and private compliance assistance providers?
- Are existing and planned projects and tools meeting the compliance assistance needs of the regulated community?
- Are there other problems not identified as priorities that need compliance assistance tools?
- What are the opportunities for collaboration on compliance assistance activities, technical assistance, and other outreach activities?

The first panelist was Gregory Fried of EPA's Office of Compliance. Mr. Fried provided an overview of the mission of the Office of Compliance with regard to the Resource Conservation and Recovery Act (RCRA) compliance assistance. In addition, he briefly discussed several compliance assistance tools that are available to state and local providers. In his presentation, Mr. Fried also identified three of the Office's ongoing efforts for compliance assistance:

- 1) To continue EPA's role as a "wholesaler" of compliance assistance in order to improve provider community efforts;
- 2) To resolve issues surrounding continued financial support for existing EPA-funded compliance assistance centers; and
- 3) To continue to develop performance measures for the compliance assistance tools that are established.

The second panelist was Mr. Desi Crouther of EPA's Office of Regulatory Enforcement. In his presentation, Mr. Crouther highlighted the following national RCRA priorities as potential areas for future compliance assistance:

- Petroleum refining sector;
- Metal services sector; and
- RCRA-permit evaders.

Mr. Crouther briefly discussed the compliance approaches used by EPA's Office of Regulatory Enforcement in the past, which included a combination of compliance incentives, compliance monitoring, enforcement activities, and outreach and assistance. Examples of outreach and

assistance activities include: enforcement alerts; roundtables with trade associations; best management practices documents; and sustainable industries programs. In addition, Mr. Crouther briefly summarized some specific attributes of successful collaboration programs such as effective communication, integrated planning, strategic partnering, sound decision-making, and customized solutions.

The third panelist was Judi Kane of EPA's Office of Solid Waste. Ms. Kane provided an overview of the Office of Solid Waste's compliance assistance resources available to state and local providers. In addition, Ms. Kane spoke about the need to educate and engage the public in environmental protection. Ms. Kane noted that there are a number of tools that can be incorporated into a program for educating and engaging the public. For example, Web sites can contain information such as rules, regulations, fact sheets, technical documents, publications, and databases. Information products can be provided on-line, in print, or on CDs. Finally, focus groups can be used to develop outreach materials and to comment on existing materials.

The fourth panelist was Carl Daly of EPA Region 8. Mr. Daly provided a brief overview of regional RCRA compliance assistance activities. Mr. Daly highlighted Region 8's environmental information center that lends itself to the public through phone calls or walk-in visitors. In addition, the regional RCRA programs are involved in the following activities: determining selection criteria for the regulated community to provide compliance assistance; holding classroom training sessions; providing mock inspections to help the regulated community; and sponsoring conferences on new regulations.

The final panelist to speak was Cheryl Coleman of the Association of State and Territorial Solid Waste Management Officials. Ms. Coleman provided an overview of state compliance assistance activities, focusing primarily on her home state of South Carolina.

Ms. Coleman indicated that states continue to face budgetary obstacles with regard to compliance assistance. In addition, Ms. Coleman noted that states need EPA to develop plain language rules and to involve states early in the planning, targeting, and rule-making processes. Ms. Coleman identified opportunities for collaboration in developing compliance assistance resources, such as EPA marketing booklets, Web sites, and help-lines with entities such as trade associations and local governments.

Following the presentations, there were questions from the audience. The common theme resulting from these questions was that RCRA is a complex rule that is difficult to understand. As a result, many wastes are misidentified or not identified at all. In addition, the complexity of the rule has caused EPA to lose sight of the ultimate goal of the rule which is to protect human health and the environment by preventing waste sites and accidents, and promoting resource conservation.

The group then addressed the objectives of the session as a whole. Through this discussion, the participants addressed the following questions:

What are the compliance plans and needs of state government, local government, and private compliance assistance providers?

The group identified the following needs:

- Resources for states for compliance assistance;
- Tools to measure outcomes;
- More comprehensive and consistent interpretations (RCRA On-line); and
- Consistent training program for RCRA inspectors and an extension of this to the states.

Are existing and planned projects and tools meeting the compliance assistance needs of the regulated community?

According to the group, EPA needs to:

- Improve marketing of the available compliance assistance tools and training;
- Do a better job consolidating effective RCRA resources (finding good information at EPA is difficult);
- Improve accessibility of compliance assistance tools;
- Make more financial resources available for compliance assistance;
- Have a full-time employee (FTE) dedicated to compliance assistance to tackle multi-media problems; and
- Make tools applicable to states (States are more stringent than EPA with environmental regulations so the regulated communities in many cases are out of compliance when they use EPA tools.)

Are there other problems, not identified as priorities that need compliance assistance tools?

The group identified the following problems:

- Need tools for making regulatory interpretations, including a focus on recycling issues;
- Need to develop a regulatory inspection manual; and
- Need list of persistent bioaccumulative toxics (PBTs).

What are the opportunities for collaboration on compliance assistance activities, technical assistance and other outreach activities?

According to the group, opportunities available include:

- Root cause analysis, typical violations for companies; and
- Improve prevention measures, which are difficult to measure.

PLENARY SESSION March 8, 2001***Networking Through the National Compliance Assistance Clearinghouse – A Resource for Compliance Assistance Providers***

Ms. Pam Christenson, Director of the Wisconsin Small Business Assistance Program, presented an overview on the National Compliance Assistance Clearinghouse. The clearinghouse includes 4,000 records, and will be expanded this year to include more state compliance assistance resources. The clearinghouse makes available to compliance assistance providers various compliance assistance tools, including guidance, training, technical assistance resources, and other information. Users of the clearinghouse can narrow searches by focusing on specific sectors or geographic areas. In addition, users can rank the site and provide comments regarding content and usability. The guidance documents provided on the Web site link to other Web sites, which ensures that the guidance is the most current available. The clearinghouse also features a directory of compliance assistance providers by region, state, and area. In addition, users have the ability to import information from the clearinghouse to their own Web site.

CONCURRENT SESSIONS: Tools and Approaches for Delivering Compliance Assistance 9:00 – 10:45 March 8, 2001

Session I: Integrating Compliance Assistance with Enforcement, Monitoring, and Other Approaches

The purpose of the session was to develop possible criteria that could be used in determining the appropriate mix of strategies to improve environmental performance at regulated facilities and discuss issues associated with the integration of compliance with enforcement, monitoring, and other environmental assistance approaches. The facilitator for the session was Pat Tallarico of the Marasco Newton Group.

The first panelist to speak was Desi Crouther of EPA's Office of Enforcement and Compliance Assurance. Mr. Crouther discussed "Innovative Enforcement Approaches," which is a program designed to expand the use of integrated strategies that combine compliance assistance, incentives, monitoring, and enforcement activities. Mr. Crouther identified the benefits of such an approach as promoting flexibility, increasing partnership opportunities, and ensuring the protection of human health and the environment. The core principles of the program are:

- Determining noncompliance;
- Targeting high-risk violations;
- Measuring environmental results; and
- Providing incentives.

Among the guiding principles that Mr. Crouther shared were:

- Clear definition of the problem;
- Customized approach that addresses the problem;
- Appropriate measures of success; and
- Continual adjustments and timely close-out in the strategy.

Mr. Crouther indicated that the Agency hoped to use an integrated strategies approach on new major regulations and use a high level of stakeholder involvement in the process. He also mentioned that these integrated strategies would reflect the geographic priorities of the states and regions.

The second panelist to speak was Mary Werner of the New York State Department of Environmental Compliance (NY DEC). NY DEC's pollution prevention unit has 20 staff that help business and industry come into compliance and go beyond compliance. The unit offers technical assistance, a hotline, a clearinghouse, and web site as well as provide generic tools such as the small business self audit and a pollution prevention guide. The program is now developing sector specific tools.

Ms. Werner explained that the state has had a coordinated multi-media inspection program since 1992. As a result of those inspections, they have found that about 400 facilities account for 90%

of toxic and hazardous pollution. She suggested that 80-85% of pollution prevention is related to compliance assistance and stated that NY state is involved in an incentive program, the strategic goals program for metal finishers. Among other things, this program encourages metal finishers to develop Environmental Management Systems (EMSs).

Ms. Werner also discussed her state's Comparative Risk Project. The Comparative Risk Project is assessing risks to human health, environmental health and quality of life. Among the highest risks identified through this project are halogenated hydrocarbons, metals and atmospheric gases. The state is beginning to consider how to address these risks.

The third panelist to speak was Greg Roscoe of EPA's New England Region. Mr. Roscoe explained his Darwinian approach to integrated strategies. He suggested that there is a spectrum of sophistication for assistance strategies that reflect the evolution of more sophisticated solutions to more complicated problems. However, environmental problems are not always best served by the most sophisticated approaches - integrated approaches aren't necessarily best! The more obvious problems such as rivers catching fire were effectively dealt with through regulation, permitting and compliance. As the environmental agenda has matured, the problems have too, often being complex in nature or root cause. As we became more sophisticated, so did our regulatory and statutory framework. Assistance became an accepted tool to help advance responsible environmental behavior of the regulated community. The agency and states also gleaned that assistance and enforcement efforts could work interactively. Getting "carrot and sticks right" came into practice.

Regulatory agencies have also become more sophisticated at looking at sector, environmental problem and place based opportunities. With the additional complexity of these problem areas, more sophisticated approaches evolved that began with ensuring that strategy components were at least coordinated within a problem area. Ultimately, integrated strategies evolved where key leveraging approaches were developed in consideration of the key problem areas. From the dictionary definition, an integrated strategy is a plan of action resulting from the *practice of strategy made whole by bringing all the parts together*. Integrated strategies engender to bring the right solutions to the right problems.

Integrated strategies aren't just about compliance. They start from the identification of environmental problems and opportunities. They usually include compliance as a cornerstone but are usually more complex in their performance goals. They apply tools that best improve the environmental performance relative to the most important opportunities.

The final panelist to speak was Rich Sustich of the Metropolitan Water Reclamation District of Greater Chicago. Mr. Sustich discussed the "Integration and Implementation" document that described a decision matrix for evaluating compliance assistance priorities. The driving force behind the paper was to evaluate EPA's Office of Enforcement and Compliance Assurance's decision making process in determining when it is appropriate for enforcement action, compliance assistance, or a mix of the two.

The model presented includes an evaluation of appropriate compliance assistance intervention based on, at a minimum, current situation, seriousness, past history, impact, availability of information, regulatory status, and other parameters. The matrix examines the impacted communities; the mode of informing these communities; and effective tools, partners, and barriers to effectiveness in an effort to target compliance assistance. Mr. Sustich stated that he hoped that this matrix would help the Agency and other compliance assistance providers maximize their compliance assistance efforts.

Finally, Mr. Sustich presented the following six examples of strategic decision-making using this type of matrix:

- Significant noncompliance, high environmental impact, and isolated occurrence – This scenario suggests that wholesale compliance assistance is already effective at reaching the majority of the regulated community. Additional efforts at compliance assistance will not substantially improve the situation, and the high environmental impact that results indicates that traditional enforcement action against non-compliers is warranted.
- Significant noncompliance, low environmental impact, and isolated occurrence – This scenario suggests that wholesale compliance assistance is already effective at reaching a majority of the regulated community. Low environmental impact would allow opportunity for retail compliance assistance activities aimed at the isolated non-compliers, as a precursor or in coordination with formal enforcement action.
- Significant noncompliance, high environmental impact, and widespread occurrence – This scenario suggests that wholesale and retail compliance assistance have been ineffective at reaching a majority of the regulated community. High environmental impact indicates that quick, effective enforcement action also is warranted. This situation would best be addressed through formal enforcement action coordinated with follow-up compliance assistance.
- Significant to occasional noncompliance, low environmental impact, and widespread occurrence – This scenario suggests that wholesale and retail compliance assistance have not been effective at reaching a majority of the regulated community. Low environmental impact would allow opportunity for wholesale and retail compliance assistance efforts, with coordinated follow-up enforcement.
- Compliance or beyond-compliance and high environmental impact – This scenario suggests that the existing regulation is inadequate to achieve the necessary level of environmental protection, and should be revisited.
- Compliance or beyond-compliance and low environmental impact – This scenario represents the end-point of the traditional regulatory approach in which the majority of the regulated community is in compliance and the environment is protected. Traditional command-and-control approaches cease to be a driver for improved environmental performance, and further gains in environmental

performance can only be achieved through voluntary participation programs or market-based incentives.

After the presentations, the facilitator asked the group if they believed that integrated approaches were valuable. Most participants agreed that such approaches were valuable, especially for small businesses. The group then was asked to break out into small groups to discuss whether or not they felt a model for integrated approaches would be useful and what criteria they might include in such a model. Some of the groups discussed these topics, while others provided more general feedback. Highlights from the breakout discussions are below.

Group 1

The first group reported that integrated strategies were appropriate for small businesses, but not large businesses. They emphasized the importance of focusing on reaching the goal of compliance and that outreach was the most important aspect of any compliance assistance effort. The group recommended that multi-media inspections were valuable tools to achieve compliance but that they needed to be preceded by education and outreach and that inspectors needed to be trained for the inspections to be most effective. The group also mentioned that risk was an important criteria that was not included in the model and that it should be used as a basis for prioritizing approaches.

Group 2

The next group observed that the integrated model has been around for a long time, and that it was a good idea to try to document what the Agency has been doing. They recommended that any changes to the model should come from the bottom up instead of employing the traditional top down method.

Group 3

The third group suggested that what might be more helpful than a model was a menu of approaches that providers could choose from given a particular problem. The group also suggested that a listing of industry issues also may be helpful. For example, it is known that, for small businesses, quick returns on investments are critical. Thus, solutions that are not costly or have quick payoffs are preferred. Larger industries can absorb the costs of longer payback periods. Finally, this group suggested expanding the catalogue of compliance assistance and other tools that are available based on what has been done in the past.

Group 4

The next group agreed that a model would be helpful. They felt that environmental impact was the most important factor to consider and that risk, quality of life, prevalence of compliance, and pollution prevention potential should be included as criteria.

Group 5

This group began by questioning the government's role in compliance assistance and suggested that the government should be a conduit rather than a direct provider of compliance assistance.

They suggested allowing larger industries and private organizations to assist smaller facilities. They also stressed the importance of doing compliance assistance early, when a new regulation is issued and that the Agency needs to be more hands-on in assessing the scope of the compliance problem and providing technical expertise.

Group 6

This group felt that the model presented a logical framework and that it had many criteria. The group asserted that the size of facility should not necessarily be a determining factor in who receives compliance assistance. Rather, it was important that all facilities have access to accurate information to help them comply. Additional criteria that they identified included:

- Complexity of the regulation;
- Cost of compliance, including incentives;
- Financial capacity;
- Risk; and
- Economic significance of the regulation.

Group 7

The last group questioned how it might be possible to get the model to work and to institutionalize it. They expressed interest in wanting to see if it was effective. The enforcement staff in the group liked the idea of having a model, but agreed that one type of model may not work. They suggested models that are sector-based or regionally-based. One criticism they had of the model is that it never said “enough is enough” for facilities that were unwilling to comply.

Session II: Strategies for Developing and Delivering the “Right” Compliance Assistance Tools

The purpose of the session was to receive input from compliance assistance providers on how to better design and deliver compliance assistance tools and to identify what strategies have worked in the past and how to match the right tool with a particular end user. The facilitator for the session was Doug Sarno of The Perspectives Group.

The first panelist to speak was Blair Henry of the Pacific Northwest Pollution Prevention Resource Center. He presented a basic three-step process or methodology for developing compliance tools that included: defining goals and getting familiar with the customer; prioritizing the customers needs and identifying and aligning common goals; and developing tools that are simple, yet valuable and comparable.

According to the process presented by Blair Henry, the first step is to define a very specific goal by understanding and prioritizing the customers’ needs. He pointed out that a common mistake of compliance assistance providers is to develop tools without first gaining a clear understanding of what the customer wants. He also emphasized the importance of building people skills by getting out of the office and getting to “know the customer.” The next step is to align the needs of the customer with the needs of the regulator developing the tools. Once these needs and goals have been outlined, he suggested that the right tools distribution methods would become

obvious. He finished by stressing the importance of field testing all tools that are developed to ensure that the goal of the compliance assistance activity and the outcome are compatible.

The second presenter was Sharon Johnson of North Carolina's Division of Pollution Prevention. She stressed the need to spend plenty of time up front in a project getting information from the people closest to the problem. She added that such partnerships are important because they provide a mechanism for distributing materials and communicating needs and issues to the regulated community. She stressed the need to involve a wide range of people to develop the necessary tools and to keep the tools simple, verifying that they are appropriate for the audience. She then discussed her experience in developing a compliance assistance program to combat sewer overflows in North Carolina. These overflows were occurring because of grease clogs caused by discharges of kitchen sink waste waters from restaurants and similar commercial establishments to the public sewer system. She discussed the state's efforts to partner with the North Carolina Restaurant Association and to increase citizen participation and awareness through an effective marketing campaign. Effective tools included: utilization of a utility bill insert explaining the problem and possible solutions; creating a task force that partnered with the food service community to discuss the problem; developing fact sheets for pretreatment coordinators, the restaurant association, and restaurant owners; and developing informational posters that were displayed to target workers in restaurant kitchens.

Following the presentation, an audience member and EPA representative asked Sharon Johnson if the state had developed metrics or a strategy for measuring the success of such assistance programs in terms of direct environmental benefits or outcomes. The EPA representative pointed out that, as a result of the Government Performance and Results Act, the EPA is seeking ways to identify measures that indicate the successes resulting from compliance assistance activities and programs. Sharon Johnson stated that although quantitative measurements (e.g., measuring the amount of grease, fats, and oils discharged into the sewer system by restaurants) were not possible, other measures, such as the reduction in the number of sewer overflows occurring due to grease clogs, were obtainable and indicated that the goals of the program were being achieved. Therefore, in measuring the success of such a program, it became necessary to create broader measures as opposed to focusing on specific outcomes and behavioral changes (e.g., decrease in use of fats, oils, and grease by restaurants). She added that developing such precise measurements were counterproductive, given the limited staff and resources involved.

Another participant questioned the motivation behind the state's action to develop the sewage compliance program. Sharon Johnson explained that enforcement fines for generating sewer overflows from grease clogs were increasing, generating interest in developing such a program. She noted that the prime motivating factors for developing such a program included:

- New rule development;
- Public relations/media issues calling attention to an issue; and
- New enforcement actions being taken on a particular issue.

Another audience participant noted that it should be the role of the inspector to point people in the right direction to answer their questions regarding these issues. Marci Kinter, a panelist/speaker for the session, expressed concern over the lack of a defined role for an inspector in regard to compliance assistance issues, noting that it would be helpful for industry if EPA were to develop guidance outlining the specific roles and responsibilities of an inspector. Concerns over defining the role of the inspector were echoed by several other participants. During this discussion another audience member and EPA official noted that a guidance document detailing the duties and responsibilities of EPA inspectors is being developed and that a draft of the manual was available through a Web site link for the session.

The third panelist to speak was Marci Kinter of the Screen Graphics and Imaging Association. In reflection of her experiences, Ms. Kinter stressed the need for the regulatory community to understand the industry they are targeting and the importance of involving the affected stakeholders in developing and distributing these tools. She noted that getting stakeholder input is even more important as EPA moves more towards the role of wholesale supplier of such tools. If these tools are not appropriate and useful to states and localities, they will not be utilized. Also, industry cannot necessarily be convinced to utilize a given process/tool simply because they are “green” products. If there is no clear marketing incentive for the producer, they will not be receptive to it. In most cases, consumers do not respond to “green” products either. Tools that were cited as being successful included: workshops and training (pairing with national and state trade associations) and sector oriented notebooks. Marci Kinter also suggested utilizing these associations’ extensive databases of members to develop focus groups for state and federal regulators to target.

Following the presentation, an audience participant questioned the motivation behind the Florida printing industry's move to collaborate with the EPA in developing compliance assistance information. Marci Kinter explained that the printing industry represents the largest manufacturing sector in Florida, and the state asked the printing industry to collaborate. Additionally, there was motivation on the part of the printing industry to become involved, because EPA would develop forums and workshops, asking the printing industry to participate, but the industry was not being invited to participate in the planning stages for such events.

The final presenter was Lee Fiske of EPA’s Office of Environmental Stewardship in Region 1. She spoke of the Office's development process for creating compliance assistance tools. She listed the process methodology, whereby tools are created for key sectors that have been chosen through a defined sector selection process. The three major efforts in designing compliance assistance tools are:

- Receiving Input—The Office works with a number of end users and other partners including states, trade associations, and specific program leads in the field. She stressed the need for an open dialog with all parties involved.
- Determining the Best Means to Distribute—Once the tools have been developed, one must rely on partnerships with trade associations and other organizations to aid in distribution.

- Measuring the Tools' Effectiveness and Always Be Willing to Revise—She stressed the need to field test the tools. This has the added benefit of lending credibility to the tools that are developed. Additionally, surveys (e.g., with trade associations) were suggested to again assure the applicability of the tools developed and to lend credibility to their use.

Following the presentation, an audience participant questioned how one could ensure that the right mix of people have been included in a focus group to develop and test the compliance tools. Ms. Fiske responded that this was difficult to quantify, but stressed the need to include as many participants from as many different backgrounds as possible to ensure a balanced approach.

After listening to the presentations, the participants, as a group, discussed methods for designing and delivering better compliance assistance tools to the regulated community. They were to identify what strategies have worked in the past and how to match the “right” tool with a particular end user. The participants addressed the following questions:

How do we best identify the compliance assistance needs of end-users?

- There was general consensus that it was crucial when developing compliance assistance tools to closely examine the capacity of the end user and take into account the level of education, the organizational dynamics of the business involved (i.e., the division of labor), and any language barriers that may exist.
- A participant from Region 1 noted that national media programs that are developing these tools, particularly pursuant to the Small Business Regulatory Enforcement Fairness Act's 90-day time limit, may not be afforded the opportunity to do the relationship development and field testing necessary to develop tools with the end users. She added that while media programs could work to develop tools with intended end users/trade associations while a rule is pending or proposed, there is less of a likelihood of reaching out to all end users when tools are developed for multiple sectors or audiences, suggesting that this may present an argument for fewer multi-sector tools.
- An Army representative noted the importance of developing standard training mechanisms to ensure that the recipients' training needs are consistently met by developing a systems approach to training. Using this approach, the basic mechanics of how a training occurs are studied and a guidance document is then written for developing future training programs.
- A participant from Region 3 noted that from a state and regional perspective, compliance assistance is learned through enforcement officials. The suggestion was to examine existing inspection reports and regulatory updates to determine where new and existing compliance needs are. This led to a brief discussion on how to better engage inspectors in providing compliance assistance information. Another audience participant from EPA's Office of Compliance indicated that EPA is currently developing tracking sheets for inspectors allowing them to report how compliance assistance was offered and conducted during the inspection. This information then would be used to make informed decisions on the type and quantity of compliance assistance tools EPA should consider.

- A participant working with EPA's small business program noted that the small business program has developed a report to Congress, wherein the requests for help from each state's small business providers were noted. He indicated that the report would be useful in determining where the common compliance issues are within a state.

How should we prioritize compliance assistance needs?

- Lee Fiske suggested that EPA focus on areas and sectors where the largest environmental impact is realized. She questioned whether these priorities would be the same from a compliance and enforcement perspective.
- There was general discussion over the fact that the compliance assistance priorities for national, regional, state, and industry participants often were not the same.
- Lee Fiske suggested that when prioritizing compliance assistance needs, EPA should look at which sectors need the most assistance, stressing that there should be a focus on small to mid-sized companies, given their relative lack of resources.

How do we deploy those compliance assistance tools to the end user?

- Lee Fiske noted that advertising enforcement actions within a particular sector was particularly successful in grabbing people's attention and getting the word out about regulatory information. She cautioned, however, that this approach requires a lot of coordination with states and a great degree of communication with the impacted sector.
- It was suggested that it would be beneficial to have violators partner with EPA in distributing compliance assistance tools and information. This could be accomplished through the development of Supplemental Environmental Projects (SEPs), which could provide for mitigation of a violation penalty in return for assistance by the affected company in promoting compliance assistance to other agencies.
- Several participants suggested developing compliance mentoring between large and small businesses. It was noted that issues occur in such situations over concern for trade secrets. A possible remedy to the situation involved developing mentoring relationships between companies outside of a given sector.
- Lee Fiske suggested having EPA work with insurance companies to develop compliance assistance programs, whereby insurers could place pressure on companies to comply with regulations.

Session III: Measuring the Results of Compliance Assistance Activities

The purpose of the session was to identify metrics that should be more closely examined and to engage participants in a discussion of how providers can share compliance assistance measures. The session coordinator was Tracy Back of EPA's Office of Compliance. John Gorman, of EPA, Region 2 acted as moderator. The facilitator for the session was Don Greenstein of the Marasco Newton Group.

The first panelist to speak was Donna Inman of EPA's Office of Compliance. Ms. Inman discussed the *Yellow Book: Guide for Measuring Compliance Assistance Outcomes* and how outcomes impact the environment. Measures include awareness and understanding, changes in

behavior, and improvement in the environment. Ms. Inman and her division are currently involved in a program to determine the outcome of compliance assistance efforts on specific industry sectors. This program involves three steps for measuring outcomes:

- Planning;
- Conducting the evaluation (sample population); and
- Analyzing and presenting the data.

The evaluation that Ms. Inman's division is conducting involves: identifying companies to include, developing a statistically valid compliance rate as a result of compliance assistance, and incorporating these findings into EPA's Compliance Assistance Plan.

The second panelist was Terri Goldberg of the Northeast Waste Management Officials' Association. Ms. Goldberg began by discussing eight draft recommendations that the Compliance Assistance Advisory Committee has developed that are to be reviewed by Administrator Whitman, and the Northeast Management Senior Officials Association. These eight recommendations appear below:

- 1) Measuring the outcome of compliance assistance and pollution prevention activities is necessary to EPA and other providers. Specific funding for the development of an effective system for compliance assistance and pollution prevention measurement is critical.
- 2) EPA should facilitate the aggregation, analyses, and communication of compliance assistance measurement information on a national level to address the fragmentation of ongoing measurement activities. To accomplish this, EPA should:
 - make available an "easy to use" system for providers to voluntarily input compliance assistance / pollution prevention measures information. EPA's compliance assistance tracking system or the National Compliance Assistance Clearinghouse should be considered as a foundation for a compliance assistance / pollution prevention measures collection system.
 - ensure that compliance assistance activity results are shared with all stakeholders, including Congress, policy makers, businesses, assistance providers, and community groups.EPA should place a high-level prioritization on the development of a providers' compliance assistance / pollution prevention measures collection system.
- 3) EPA should strive to streamline any institutional barriers which inhibit the collection of data measuring the effectiveness of compliance assistance/pollution prevention activities (including, but not limited to, OMB Information Collection Request (ICR) requirements under the Paperwork Reduction Act (PRA).);
- 4) OPTION 1: Where CA is provided to a regulated entity, a request should be made for that entity to provide follow-up information to the compliance assistance

provider on whether or not they have attained compliance and otherwise improved environmental performance by going beyond minimum compliance requirements.

OPTION 2: Where CA is provided to a regulated entity, a request should be made for that entity to provide follow-up information to the CA provider regarding resulting impacts on environmental performance (e.g, waste /emissions / discharge reductions).

- 5) EPA should develop and make available a menu of environmental, public health, and compliance assistance outcome measures. The National Compliance Assistance Clearinghouse should be considered as a mechanism to share the “measures menu” with compliance assistance providers, businesses and communities.
- 6) EPA should be accountable for the use of public expenditures. Compliance assistance activities exceeding \$75,000 of public money (contracts, grants, cooperative agreements, etc.) should not be awarded without a requirement for measuring and reporting the effectiveness (outcome results) of such activity. The measurements may be either objective or subjective, but must be to a proper level of detail to capture the true effectiveness of the CA activity. Refer to EPA’s Guide for Measuring Compliance Assistance Outcomes.
- 7) EPA’s Guide For Measuring Compliance Assistance Outcomes (Yellow Book) should be augmented to more fully address the spectrum of compliance assistance measures, particularly outcome measures. Currently, the document provides valuable guidance on developing and implementing surveys to evaluate specific compliance assistance projects (e.g., workshops, documents, on-site visits). The document should be updated to include, at a minimum, guidance on assessing the outcomes of compliance assistance programs and on developing surveys that result in statistically significant results.
- 8) OPTION 1: Limited resources are available to measure the effectiveness of compliance assistance, \ and it is desirable to develop partnerships in the delivery of compliance assistance; therefore we recommend that a program be developed to mobilize voluntary community groups to assist providers in measuring compliance assistance outcomes. We recommend that compliance assistance programs encourage partnerships with community groups.

OPTION 2: We recommend that compliance assistance programs encourage partnerships with community groups to determine the compliance issues that communities want to have addresses and to establish acceptable measures to determine if the compliance assistance is improving that compliance.

Ms. Goldberg then described a project of the Northeast Waste Management Officials' Association (NEWMOA). NEWMOA is an interstate governmental association that coordinates activities among northeastern states on waste and pollution prevention issues. The project that Ms. Goldberg described was a project to develop a set of pollution prevention and compliance assistance metrics and software to aid states in implementing those metrics. The Association developed the menu of assistance metrics to include core activity and outcome measures.

Ms. Goldberg highlighted the importance of metrics for:

- Program management;
- Communication;
- Program funding and support;
- Influencing policy development;
- Measuring a program from the perspective of the expected goals;
- Interfacing with regulatory officials; and
- Understanding compliance rates.

The menu of pollution prevention and compliance assistance focuses on metrics that will enhance the management of assistance programs, support program funding, and enable programs to more effectively communicate with the public and policy makers.

The menu includes assistance metrics for the following categories of activities: on-site assistance; workshops and conferences; educational materials and tools development and dissemination; awards; and grants. Ms. Goldberg presented examples from these categories of assistance activities. The menu of pollution prevention and compliance assistance metrics is available on www.newmoa.org. NEWMOA will have a beta version of the software available for review this spring.

The third panelist to speak was Jeff Winerack of the New Mexico State Pollution Prevention Office. Mr. Winerack briefly discussed the Green Zia Environmental Excellence Program. Through this program, New Mexico has worked with local, state, and federal governments to reduce waste and save money through environmental management systems. Green Zia sets up an award structure for participants as an incentive to reduce waste based on commitment level, achievement, and excellence. This multi-level approach has produced three types of results:

- Environmental results;
- Customer, supplier, employee results; and
- Financial results.

The final panelist to speak was Rudy Cartier, Jr. of the New Hampshire Department of Environmental Services. Mr. Cartier spoke about the small business sector of New Hampshire, noting that small businesses do not receive funding from the federal government. Within small businesses it is difficult to measure what is being done because they quickly fall under the "radar screen." Mr. Cartier highlighted that EPA could help by: agreeing on definitions; allowing state

specific systems development; and allowing and requiring replication. Mr. Cartier also mentioned how EPA needs to look at the “big” picture of compliance assistance looking at cross-state and cross-media issues.

Following the presentations, there was a question and answer period. The following discussion occurred:

What mechanisms were used to determine which industries would be surveyed?

The Agency used EPA data sources as a starting point and then went through local data sources like the phone book.

What is the difference between option 1 and option 2 in recommendation #8?

The difference between these two options is that option 1 actually uses community groups to do the measurement; whereas, option 2 just encourages partnerships with them. In that case, the attendee who spoke supported option 2.

Some participants expressed concern about the \$75,000 figure included in recommendation #6. In response, panel members asked if there was another figure that would be more appropriate. Responses ranged from \$50,000 to \$500,000.

Session IV: Challenges of Delivering On-site Compliance Assistance

The goal of this session was to share information on effective models for on-site compliance assistance; discuss implementation issues, such as policies needed and qualifications/training of providers; identify tools that work best; and provide information on the models that work best. Ken Gigliello, Associate Director, Compliance Assessment and Media Programs Division at US EPA was the session coordinator.

The first panelist was Samantha Fairchild, the Director of the Office of Enforcement, Compliance and Environmental Justice in US EPA Region III. She described the five key questions the various panelists addressed, and laid the ground for discussion after the panelists concluded their remarks. The five key questions were:

1. What are the types of on-site compliance assistance programs are in operation?
2. What should be considered before setting up on-site assistance programs (e.g., Who provides the assistance and to whom? How are the providers trained? What assistance is being provided and how? What are the pitfalls to avoid?)
3. What issues arise during implementation and how do on-going programs handle them?
4. How do these on-site compliance assistance programs relate to the compliance monitoring/enforcement programs?
5. How successful are these programs and how is success being measured?

The second panelist was Dana Stuller, Senior Technical Specialist for the State of Pennsylvania's Technical Assistance Program. She explained that the Pennsylvania Technical

Assistance Program (PENNTAP) is a free, non-regulatory, request-driven program. Under the program, senior technical specialists provide the assistance and are hired based on education and years of industry experience. The types of assistance that is typically offered by the program includes permit writing, mediating, environmental program review and assessment, and service provider acquisition. Whether or not a facility can receive assistance under the program is determined by the size of the company (<250 employees), the time involved (<20 hours of technical service time), and the compliance status of the facility (must not be in violation status).

Each time PENNTAP provides assistance, it follows a standard process, which includes: an on-site visit, a determination of client needs and desired client outcomes; development of a report; a close-out visit; and follow-up through a client survey that provides measurable results. An important aspect of the program is that it tries to change the client's viewpoint and behavior dealing with the environment, identifies appropriate subcontractors to assist facility in achieving compliance, and/or suggests government programs that offer monetary grants and low interest loans to buy equipment to fix the problem(s). Program clients are urged to understand that environmental compliance is simply a part of doing business – it means taking the time to invest in the future of the company.

In 2000, PENNTAP provided assistance in 152 cases to 123 businesses in 44 counties. The client satisfaction rate was 100%. Eighty percent of the businesses had <100 employees, and 36% of cases were referred from other organizations. PENNTAP referred 63 cases to other organizations. The facilities derived \$2.2 million in economic benefits and P2 benefits.

Program hurdles that Ms. Stuller identified include how to handle problems uncovered during site visits, client's attitude toward addressing compliance problems observed, the length of time for the project, and the manpower needed to successfully complete project.

Participants in the session asked questions relating to interaction between the program and enforcement, how violations were handled, and how the program measured success and whether they felt they were making a difference. Overall, most of the participants felt the general approach being taken by PENNTAP was reasonable.

The next panelist was Brett Cameron, Assistant Director of the Agricultural Consultation and Training program in the State of Arizona described the Arizona Department of Agriculture Consultation and Training (ACT) program that provides on-site compliance assistance to address the pesticide worker protection standard regulations, concentrated animal feeding operations, and other pesticide programs. Like the PENNTAP program, the ACT program is free, non-regulatory and request-driven. Mr. Cameron explained that there are four basic goals of the program:

- 1) Increased, documented, voluntary compliance;
- 2) Increased awareness of regulatory requirements;
- 3) Increased awareness of appropriate personal and environmental safeguards, and

- 4) Provide an alternative means of compliance through education versus enforcement.

Generally, under the program, assistance is provided as part of a three-step process, including: an on-site visit, delivery of a site assessment report, and schedule a follow-up visit to check on progress. Other activities include providing attachments to the report, a self-assessment form for the WPS regulations, and worker and handler training.

Initially, the program was focused on getting better compliance with the FIFRA worker protection standards (WPS). However, the program is expanding into other areas particularly concentrated animal feeding lots (CAFOs), including development of an animal waste management notebook and a self-assessment form for CAFOs.

Mr. Cameron presented a graph showing improved voluntary compliance from 1996-2001. He also presented a graph showing the number of compliance issues increasing with the length of the program.

Participants in the session asked questions relating to interaction between the program and enforcement, and how the program measured success and whether they felt they were making a difference. Overall, most of the participants agreed that the program being implemented by Arizona was worthwhile.

Next, Bernie Penner, the Enforcement Coordinator for the State of Maryland discussed an effort by a number of states (the Environmental Compliance Consortium) to develop an environmental compliance matrix. Below is a general description of the program:

- The environmental compliance matrix is composed of an x and y axis. The x axis is a line representing non-compliance on the left to beyond compliance on the right. The y axis is a line representing knowledge of requirements at the top and unaware of requirements at the bottom.
- As a result of this graphical view, there are four quadrants each representing a different group of facilities.
- The top right quadrant represents facilities that are superior performers. Compliance assistance in the form of incentives, government voluntary programs, and rewards programs are appropriate for these facilities.
- The top left quadrant represents the bad actors. These are facilities that should have the resources and commitment to achieve compliance, but don't. These facilities are potential candidates for civil and criminal enforcement actions. Compliance assistance is not appropriate for these facilities.
- The bottom right quadrant represents small to medium sized facilities that try to achieve compliance routinely, but sometime are unaware of requirements. These facilities are excellent candidates for compliance assistance, outreach, technical assistance and sector education.

- The bottom left quadrant represents small to medium sized facilities that are either unaware, unable, or unwilling to undertake steps to achieve compliance. These facilities are good candidates for administrative enforcement (warrants, citations), penalties with forgiveness, and some types of specific compliance assistance.
- The purpose of the matrix is to enable states to better target their limited compliance and enforcement resources on the proper facilities using the approach based on the type of facility and its position on the matrix. More work will be done over the next few months by the states to achieve a consensus on the matrix.

Participants had a number of comments and ideas on the matrix. Some thought the idea had merit, and should be considered by all States. Others thought it would be difficult to classify individual facilities or sectors on the matrix.

Mr. Penner also described the State of Maryland's approach to compliance assistance program for minor violations identified by the inspectors. He explained that Maryland's compliance inspectors render compliance assistance when he or she either: 1) documents a specific past or current violation which the regulated entity corrects in the absence of a formal enforcement action, or 2) documents a specific action or actions which the regulated entity has the option of undertaking to prevent the likelihood of potential future violations, which action or actions the regulated entity undertakes voluntarily in such manner and within such time period as deemed acceptable by the State of Maryland in the absence of a formal enforcement action. In either instance, the Maryland inspector must document the manner in which the regulated entity voluntarily achieved compliance. The State of Maryland suggests that this definition of compliance assistance has the advantage of being measurable, and objectively verifiable by a third party.

Some participants did not agree these activities fell within the definition of compliance assistance. They considered them to be compliance monitoring or enforcement activities. Some participants thought expanding the definition of compliance assistance to include these activities would take more discussion to get agreement on the approach.

The final panelist was Ken Gigliello, the Associate Director of Compliance Assessment and Media Programs Division at US EPA. He presented a discussion the role of the EPA inspector in providing compliance assistance. He described the role in the following way:

- The Role of the EPA Inspector in Providing Compliance Assistance Report was finalized in July, 1997. The Report is the best current guidance on how EPA inspectors should provide compliance assistance.
- On-site compliance assistance can be delivered in a simple or complex form. As the inspector delivers more complex assistance, the risks to enforcement increase.
- Assistance should be tailored to the type of facility being inspected

- Tier 1 assistance is appropriate for all facilities. It includes providing copies of regulations, published technical information, and simple pollution prevention techniques.
- Tier 2 assistance is technically more complex and site-specific. It includes a review of the facility's compliance status and technical assistance on standard industry practices. Tier 2 assistance is appropriate for small to medium-sized facilities, not larger ones.
- Tier 3 assistance is the most technically complex and is generally regarded as technical assistance. Examples include providing specific design information on a source's specific problem, and providing information on specific consulting services. Tier 3 assistance should not be provided during an EPA inspection of any facility.

A number of participants were interested in getting copies of the Report. Some participants suggested EPA should develop a national policy on compliance assistance during inspections, after review and circulation to states and other interested groups. Some participants felt the Report describes the proper role for EPA inspectors. They stated that the States and locals provide adequate opportunities for on-site assistance. EPA should not compete with existing state programs, such as PENNTAPP and the Arizona ACT, but should be there to address non-compliance not addressed by these programs.

REGIONAL ROUNDTABLES March 8, 2001***Region 1***

Participants discussed EPA's compliance assistance program and highlighted the idea that the second tier of coordination within EPA should be invisible to the states and regulated community (i.e., the coordination between headquarters and the regions). EPA noted that the Agency was making efforts within the compliance assistance program to coordinate instead of dictate actions and requirements to the states.

Participants noted that EPA should look at environmental protection from a business standpoint with devolution of authority. States would like to have EPA develop a process to blend enforcement with compliance so they can model their own projects based on the EPA template. In environmental protection, EPA should play a comprehensive role, identifying national, crosscutting issues. Participants also commented on the need for data to fulfill compliance assistance and enforcement requirements.

The group spent some time discussing the provision of compliance assistance services to the regulated community. Participants highlighted the need to cross-coordinate to avoid duplication. The group also highlighted the value in applying a cross-media approach to environmental protection in recognizing that pollution has no boundaries. Enforcement was noted as a necessary activity - "silver bullet" of compliance assistance - and that public assistance will always be needed. Compliance assistance has to be sold in a way that shows the customer what they gain from the activity.

Region 3

Samantha Fairchild of EPA's Office of Enforcement, Compliance, and Environmental Justice in Region 3 began the session by highlighting some of Region 3's activities, which included:

- Sharing information among programs;
- Tracking compliance assistance efforts;
- Coordinating planning;
- Developing a Web site for the office to expand information available to those in the region; and
- Developing information for college and university presidents about the impact of their institution on the environment.

She also mentioned several of the region's priorities, which included:

- Acid rain;
- Climate change;
- Estuaries;
- Ozone; and
- Urban livability.

Ms. Fairchild then asked that participants form table discussion groups to identify the major environmental problems that they faced. Any environmental problems that participants mentioned as well as the geographic area that identified the problems are listed below:

Group 1 (Montgomery County, MD)

- Automotive maintenance and repair facilities;
- Dry cleaners;
- Auto salvage yards; and
- Stormwater runoff.

Group 2 (West Virginia)

- Household solid waste;
- Stormwater;
- Lack of sewage treatment;
- Total Maximum Daily Loads (TMDLs);
- Auto salvage yards; and
- Coal mines.

Group 3 (Maryland, Virginia, and DC)

- TMDLs (given the potentially significant enforcement actions that may result, it is important that compliance assistance be done soon);
- Automotive repair sector (not as much of an issue in Virginia);
- Dry cleaners;
- Service stations (specifically, Stage II Vapor Recovery and related record keeping); and
- Aging infrastructure for combined sewer overflows (CSOs); funding is needed for publically-owned treatment works, sanitary sewer overflows, and CSOs.

Group 4

- Nutrients in the Chesapeake Bay, especially related to farm runoff;
- Ground level ozone (bad ozone);
- Mobile sources; and
- Toxics in the Chesapeake Bay.

Group 5 (Maryland, Virginia, and Pennsylvania (Northeast))

- Watershed degradation from timbering, use of all-terrain vehicles, and development;
- Automotive related issues (Sport Utility Vehicle emissions, all-terrain vehicles, mobile source pollution—residential and commercial sources, auto salvage and tire accumulation areas);
- Urban sprawl;
- Industrial parks impact on infrastructure;

-
- Nutrient management, especially from Combined Animal Feeding Operations ,
pflisteria;
 - Sedimentation from construction and farming;
 - Pesticide and insecticide application;
 - CSOs;
 - Acid rain;
 - Pharmaceuticals in the water system;
 - Drinking water protection; and
 - Industry education.

Barbara D'Angelo of EPA's Office of Policy, Economics, and Innovation then discussed some of the tools her office was working on in the area of compliance assistance. Specifically, she mentioned the Performance Track and Performance Partnerships programs that are fairly new. She also mentioned that the office has actively been working with small businesses, has developed training videos and workshops, and has established a hotline to address the needs of this unique community.

Another panelist presented several successful tools that were being implemented within Region 3, including:

- In Delaware, high school students are performing pollution prevention activities for small businesses;
- In Pennsylvania, the state is negotiating environmental management systems into consent orders; and
- In West Virginia, the state has developed a business guide for environmental responsibility.

Ms. Fairchild then identified one common problem that was identified by the groups - nutrient management - and led the group in brainstorming tools that would be helpful in addressing this issue. The ideas generated included:

- Working with agricultural agents to understand issues related to runoff and nutrient management;
- Presenting problems along with solutions and case examples;
- Investigating air deposition of nitrogen;
- Conducting compliance inspections that are not punitive;
- Trying petite beef program, where better quality beef gets better prices;
- Duplicating successful programs like sector notebooks and 507b; and
- Exploring industrial ecology—one facility's waste is another's raw material.

Other suggestions that were offered after the close of the session included:

- Farm-a-sept;
- Publically-owned treatment works "up-the-pipe;"
- Recycling waste water, especially non-contact cooling water;
- Recycling to promote waste reduction; and

- Supporting the bottle bill (beverage refund bill).

In Pennsylvania, there is a partnership program for Agriculture, Health and the Environment. Participants include the Land Grant Authority, Rodale Institute, Department of Agriculture, Department of Health, and the Department of the Environment. The theme of the partnership is: Healthy Soil, Healthy Food, Healthy People.

Region 5

There were ten people in attendance, including one university representative and four EPA staff members. The balance of the attendees were state representatives or private sector individuals.

Much of the discussion centered on coordination and communication efforts between EPA and the states as well as with private providers. The group felt that EPA does not adequately track or differentiate between compliance assistance and enforcement activities. EPA seems focused on the goal of obtaining compliance. To this end, compliance assistance needs to be differentiated and there must be some measurement of voluntary and enforcement activities.

The group felt that there is duplication of efforts and lack of communication between states and the EPA. One of the problems noted was that EPA does not have access to state reports, so they are unaware of state compliance assistance activities. For example, result reports from EPA do not reflect state activities. The group recommended more sharing of information and that an annual conference be held.

EPA has an interest in identifying specific sectors, but has found no good sources from which it can obtain reliable information. The following concerns were raised:

- How do you find businesses? The *Harris* directory was recommended as one source.
- State Industrial Codes (SIC) are often not accurate.
- Small businesses don't generally join trade associations.

One recommendation was that EPA should identify specific resources available and list them on the National Compliance Assistance Clearinghouse.

Universities, as well as private industry, are interested in getting more information on auditing and self-audits in particular. They felt that more time should be allowed for corrections because lack of time creates a disincentive to use audits.

EPA has suggested self-audits to deal with resource issues. Industry supports this so long as the information received is not used to promote enforcement activities. There needs to be a balance between enforcement and compliance activity. If EPA is encouraging compliance assistance activities then it must be sensitive to the concerns of businesses.

A standardized inspector/auditor checklist would be a useful tool. It would help providers prepare for an inspection and it should be posted on the National Compliance Assistance Clearinghouse.

There should be targeted visits by EPA to work with state inspectors. EPA-sponsored training at an annual conference would be useful.

Access to audit information of other Universities/institutions sharing of information on areas of importance was suggested.

Attorney client privilege also was noted as an issue. The group recommends that EPA offer broad environmental workshops to educate, share information, and listen to the needs of the universities and others.

There is no agreed upon definition of compliance assistance. Compliance assistance should occur before an inspector identifies a problem, some states view this identification of a problem to be compliance assistance while EPA apparently views this differently. Without a consistent definition, it will be difficult to track and measure these activities.

The group identified some areas that need compliance assistance, including:

- The issue of scrap metal dumpsters being a problem should be addressed by EPA. The water from dumpsters goes in storm drains.
- EPA needs to consider the storm water construction rules and compliance assistance issues. It is posing quite a challenge. In all future rules and regulations, compliance assistance should be considered during the drafting stage.
- Agricultural sector.

The group made the following additional recommendations:

- Share EPA priorities with the public and states.
- Develop a coordinated/central list of compliance assistance state programs and contact information.
- List project summaries on the National Compliance Assistance Clearinghouse. However, a comment from states was that they do not want to create confusion about who is regulating by posting information to the clearinghouse.
- Encourage e-mail of comments from private sector and states and listen to it.

Region 5 closed the session by explaining that their planning process has begun for 2002 and that they will be setting up e-mail resources, seeking more collaboration, and requesting state compliance assistance plans to identify opportunities for collaboration.

Region 6

The purpose of the session was to provide assistance in using resources more efficiently by identifying opportunities to partner on projects and by sharing information on existing projects that could address new problems.

Sam Coleman of EPA Region 6 opened the session by asking the following series of questions:

- What are the most important environmental, regulatory, or sector-based problems where compliance assistance needs to be focused?
- What type of compliance assistance would be most useful and effective at addressing the problems identified? To whom should the compliance assistance be focused?
- For the compliance assistance identified, are there opportunities for collaboration or partnerships between EPA and other compliance assistance providers and/or industry?
- To avoid duplication, how can we identify similar completed projects?
- In addition to the areas EPA is planning on focusing its resources for the upcoming year, are there other areas that EPA could consider focusing its compliance assistance resources?

Mr. Coleman then discussed some of the comments he has received over the years about the role of EPA. He stated that there were suggestions that EPA should play more of a support role in providing compliance assistance. There needs to be more coordination between what the states are doing and what EPA wants to do, and more coordination between what EPA targets for enforcement and what EPA targets for compliance assistance. What this means for the regional offices is that they should determine what sectors, types of industry, and geographic location that EPA should work on and what tools and resources it can provide. He briefly discussed EPA's joint activities with states in enforcement planning without compliance assistance, but noted that this year, EPA will begin to work with states in compliance assistance planning and is in the process of soliciting ideas about the identification of sectors, tools, and resources.

Mr. Coleman and participants discussed whether there was a difference in who receives compliance assistance and who gets enforcement. Mr. Coleman did not agree that there should be a distinction between groups and believes that enforcement prepares people to listen to the compliance assistance message. If you look at a sector that has high noncompliance, Mr. Coleman said, you usually have an outreach strategy first (e.g., seminars), but the problem is that there is no follow up with enforcement action. EPA and states have to make sure that there is follow-up because the strength of voluntary compliance program is directly correlated to the strength of enforcement in the state.

During the course of the regional discussion the question was raised of "What are some of the key regulatory or environmental issues that would lend itself to a Compliance assistance program?". In response to the questions, Ms. Wilkins of the Oklahoma Department of Environmental Quality explained that the majority of the violations are very simple and basic (e.g., identify and managing records properly). One of the sessions that are built into their outreach initiative is a session on "How to Inventory Your Waste for Environmental

Compliance,” among others. She also suggested that EPA could provide financial assistance to states for instituting a grants program to assist small businesses.

The roundtable participants provided and discussed the following list of priorities and suggestions:

- There should be more coordination in what EPA targets in compliance assistance and enforcement.
- EPA must follow compliance assistance with enforcement, there must be strength behind enforcement
- Partnership is needed to identify and manage waste appropriately.
- There should be more open and frequent communication.
- Additional funding is needed.
- There should be efficient and effective coordination among the EPA divisions, regions, headquarters and states.
- EPA can help by providing information, training, and financial support.
- EPA should target their compliance assistance efforts to smaller businesses who need help. There are problems in providing compliance assistance because of dual jurisdictions. For example, stripper wells and oil and gas industry fall under two regulatory programs in one state. If you comply with one regulatory body, you may not be in compliance with the other.
- Other areas for opportunities for compliance assistance include new car dealerships. They have serious water problems which include storm and wash water.
- Pretreatment training should be offered.
- Houston ship channel should help ports comply with compliance requirements.

The roundtable participants then provided the following recommendations:

- Since compliance assistance efforts vary from state to state and industry to industry, EPA must be flexible.
- There should be less fragmentation. When states send something to EPA or to the pollution prevention coordinator, EPA must communicate with each other. Requests for the same thing should not come from every division.
- System must be built from the bottom up.
- Need to know what works best and need to tell EPA what they can do to help.
- Training for specific sectors. More on process than regulatory oriented.
- Provide one-stop shopping (There should be one place you can go to get the answer as opposed to calling people all over EPA).
- Provide an idea exchange. EPA should pull out good ideas and market them throughout the region
- EPA should be wholesaler to states, so states can tailor the compliance assistance to their communities.
- Get national associations involved, if there is no local trade group, to provide compliance assistance information.

- Communities do not have the resources, so they need an advisory board and a mentor.
- Assist local communities in understanding the issues.
- EPA should provide seed money for small communities to implement environmental assessments and develop an overall strategy on how to deal with/solve environmental problems.
- Small businesses should leverage resources.
- Better match on Pollution Prevention Incentives for States (PPIS) grants.
- Better access to compliance assistance information
- EPA should be a wholesaler of information. EPA should define what is a sector, the processes involved, and get input from national trade association, then states can retail.
- Publically-owned treatment works - package message so that it can be clearly understood
- More wholistic approach on one town or community

Mr. Coleman and other participants suggested that there should be a compliance assistance roundtable as an add-on to the Pollution Prevention Roundtable in late May.

Region 7

Representatives from offices in EPA Region 7 met for an informal discussion to examine ways to utilize compliance assistance resources more effectively, to identify ways to improve partnering on projects, and to share information on existing compliance assistance projects that could be used to address new problems. The participants addressed the following questions:

What are the most important environmental, regulatory, or sector-based problems where compliance assistance needs to be focused?

- There was general consensus among the regional representatives that on a state and regional level the current focus is on promoting enforcement activities rather than compliance assistance programs. Wood treaters and dry cleaners were discussed as examples of sectors where this is occurring. There was general agreement among participants that more effort is needed in focusing actions and resources on providing compliance assistance.
- The group discussed how national and regional priorities do not always coincide. While many of the federal sectors identified were state concerns, this is not always the case. Participants stressed the need for states to have the flexibility to establish their own priorities, independent of the national concerns.

What type of compliance assistance would be most useful and effective at addressing the problems identified? To whom should the compliance assistance be focused?

- Both state representatives from Nebraska acknowledged that a sector-based strategy to compliance assistance was the most effective means of developing a national compliance assistance program. Both were proponents of increased promotion of environmental management systems as well.

For the compliance assistance identified, are there opportunities for collaboration or partnerships between EPA, other compliance assistance providers, and/or industry?

- The group agreed that collaborative efforts were crucial in developing compliance assistance programs. Types of collaborative efforts recommended included: forums and roundtables.
- There was discussion over the need for states to quantify and report partnerships to the regions and to headquarters. There was agreement that requiring states to formalize and quantify partnerships within the compliance assistance program could become a complex and burdensome process. However, there was general agreement that general partnership requirements and institutional guidelines on establishing such partnerships was necessary to ensure the continuity of such roles as staffing changes occur.

In addition to the areas EPA is planning on focusing its resources for the upcoming year, re there other areas that EPA could consider focusing its compliance assistance resources?

- Participants discussed examples of various compliance assistance programs that have been successful:
 - There was discussion how in Region 2 inspectors had been utilized as compliance assistance providers, each focusing on two sectors at a time. Only if no action was taken in response to the actions called for in the compliance assistance inspection were enforcement actions taken.
 - The Environmental Assistance Division in Michigan was mentioned as developing an innovative program, whereby inspectors could take part in a voluntary program where they rotated through a two-year cycle of providing compliance assistance to a given sector.
- Participants generally agreed that it is crucial for EPA to develop a more united approach to coordinate its compliance assistance, pollution prevention, and enforcement programs.
- A state representative noted that compliance assistance may be the only answer to many of the environmental issues that exist, given that regulations do not exist for many of things. He suggested that the true benefit of compliance assistance is its ability to extend beyond mere regulatory compliance issues.

Region 8

Participants at the Region 8 Roundtable discussion made the following points:

- We need to look at the small business auto service sector.
- We need to be clearer about compliance assistance.
- We need to be involved in cooperative efforts with the enforcement folks: including solid and hazardous waste, used oil issues, etc..
- The Wyoming Small Business office did an information letter and checklist for small business on possible environmental concerns for small businesses. This sheet was sent to 278 businesses. The office then did some on-site visits to clarify the information, look for behavioral modifications, etc. They observed many improvements in compliance.
- The office also did another outreach effort with dry cleaners in Wyoming. They did a mailing, and have observed near perfect compliance rates.

- Wyoming does an inspection of the whole state every three years using multi-media.
- They only suggest enforcement when an immanent and substantial endangerment situation arises.
- Small businesses see the state enforcers, state small business people, and the federal government as one in the same, all environmental officials.

During the regional discussion, the participants addressed the following questions:

What are the most important environmental, regulatory, or sector-based problems where compliance assistance needs to be focused?

Combined Animal Feeding Operations are a big concern in Wyoming. Also, energy and power resources (ex/oal bed methane) are a major concern. Region 8 should be available with information for compliance assistance to states, etc.

What type of compliance assistance would be most useful and effective at addressing the problems identified?

- Most useful compliance assistance would be sector specific written material.
- Region 8 does not need to reduce the information available.
- Needs to stop fragmenting all of these areas (enforcement, small business assistance, compliance assistance, etc.). We need to work together in the regional offices.
- Enforcement can be a motivator for using compliance assistance.
- Also, Wyoming has another area of problems: saw mills and waste wood, and waste tires.
- They need technology information on how to deal with these pressing issues, from the regional and federal level. This information needs to be together, and readily available.

For the compliance assistance identified, are there opportunities for collaboration or partnerships between EPA, other compliance assistance providers, and/or industry?

- We are all too fragmented, we need to collaborate more.
- EPA needs to sponsor training, the states can't afford to do it all.
- Build partnerships with the states so they don't need to own us.
- Partnerships are important, information sources should not be competitive.

In addition to the areas EPA is planning on focusing its resources for the upcoming year, are there other areas that EPA could consider focusing its compliance assistance resources?

- Region 8 can be a good source of information. We have experts and can do some of the training.
- Region 8 should sponsor a compliance assistance conference for all small businesses.
- Enforcement, pollution prevention, and small business should be working together—make it half discussion, half presentation. We need management-level support.

Region 10

Region 10 had a lightly-attended, but energetic, discussion unanimously in favor of a more substantial, coordinated, strategic, and regionally-focused investment in compliance assistance activities. An idea to be explored is that the energy shortage in the western United States may provide impetus for expanded compliance assistance to the extent that compliance assistance fosters pollution prevention and conservation. The first step will be an inventory to establish a benchmark of current compliance assistance programs/activities across the region.

CONCURRENT SESSIONS: Focusing Compliance Assistance Resources to Address Industry Needs 1:30 – 3:15 March 8, 2001

Session I: Strategies for Meeting Compliance Assistance Needs of Small Businesses and Small Communities

The purpose of the session was to discuss the specific compliance needs of small businesses and very small communities and to identify the types of tools and delivery mechanisms that are most effective in meeting their needs, as well as the role that efforts such as pollution prevention, environmental management systems, audits, and mentoring can play in serving the needs of smaller entities. The facilitator for the session was Doug Sarno of The Perspectives Group. The Session Coordinator was Andy Teplitzky of EPA's Office of Policy, Economics, and Innovation. Before beginning the presentations, Andy Teplitzky acknowledged David Byro of the EPA Region 3 Business Assistance Center for his assistance in developing the small business/community session. Andy Teplitzky also recognized Andrew Jacobs of Ideal Jacobs Corporation, who participated in the session as an audience resource, lending his experience and expertise to the discussion.

The first panelist to speak was Carl Komassa of the Beck Carton Corporation, a privately owned printer and converter of paperboard packaging. He stressed the need for small business and regulators to establish a foundation of trust, enabling them to work together to improve the environment. He implored small business to be active and involved in compliance and pollution prevention activities. His company has been successful in working directly with rule writers amending the Reasonably Available Control Technology (RACT) Rules pertaining to Lithographic Printers to facilitate an understanding of the RACT rules from an industry perspective. Through work with the rule writers, the rules that were developed were created in a format and language suitable for and, therefore, acceptable to the printing industry.

Following the presentations, an audience participant questioned how Carl Komassa, as a small business operator, received his regional information. His response was that this information predominantly came from his state small business assistance provider and fact sheets. He stressed the importance of sector-specific information from a small business perspective.

The second presenter was Judy Duncan of the Oklahoma Department of Environmental Quality (OK DEQ). She provided an overview of the OK DEQ customer service program and discussed the Department's focus on process simplification in regard to streamlining the small business program. She discussed several of the department's small business compliance assistance programs. They include the following:

- Developing the Re-write/De-wrong Program, which culled out the regulatory rules that were on the books but are no longer used, reducing the volume of these rules by 30 percent, and using plain language to develop rules;
- Overhauling the permitting process by rearranging the types of permits into categories (e.g., using general permits);

- Simplifying reporting and inspection procedures through the use of new forms;
- Developing better tools for the small business community, such as self-assessment checklists and creating tools that capture the attention of small businesses (e.g., sending letters offering compliance assistance and suggesting the possibility of an enforcement action if not in compliance); and
- Creating better delivery mechanisms, such as partnering with trade associations.

Following the presentations, an audience participant questioned how the customer service approach used by the OK DEQ in its outreach efforts to the small business community had been received. Judy Duncan indicated that while initially there was some skepticism for the program, the attitude toward the program has proven to be positive.

The third presenter was Walt Tunnessen of the National Environmental Educational and Training Foundation. He spoke of the need for the regulatory community to reach out to small businesses, as many small businesses do not perceive the extent of their environmental impact and often lack the personnel and expertise to address such issues. He stressed the need to build the capacity of small businesses to deal with environmental issues, discussing the benefits of peer-to-peer mentoring and working with trade associations to develop and disseminate information. He noted that the trade association approach works particularly well in disseminating information because trade associations often represent a respected third party rather than the regulatory community, which often is viewed by the small business community with a degree of mistrust.

The final presenter for the session was Edward Stern of the U.S. Occupational Safety & Health Administration (OSHA). He provided a demonstration of OSHA's Confined Spaces Advisor, one of several expert systems that OSHA has developed to help small businesses understand their environmental responsibilities and how to comply with them. The system leads the user through a series of questions based on a programmed decision logic to determine whether their facility meets certain compliance criteria and then determines whether various rules and regulations are applicable.

Following the presentations, several EPA participants questioned whether it made more sense to build expert systems in house or to use a consultant to develop them. They also asked questions regarding the costs involved in developing such systems. Edward Stern explained that a large degree of coordination is needed among numerous scientific, regulatory, and legal staff at the regulatory agency. Although he noted that the system runs off commercial off-the-shelf software and could be developed by a regulatory agency, use of a consultant/contractor may make sense. In regard to costs, Edward Stern indicated that the simplest systems cost between \$60,000-\$70,000 in contractor costs alone to produce, while the most complex system (consisting of 500 pages of logical rules) cost upwards of \$150,000 in contractor costs.

After listening to the presentations, the participants broke into discussion groups to brainstorm compliance assistance strategies for small businesses and small communities. The groups addressed the following questions:

What kind of tools work best for assisting small businesses and small communities in meeting their compliance goals?

- There was general consensus among the participants that providing on-site technical and management assistance was an effective method of providing compliance assistance to both small businesses and small communities.
- Cost benefit analysis and self analysis tools were recommended as being particularly beneficial for the small business community.
- Various participants recommended peer-to-peer training and mentoring programs for small businesses as a means to develop and distribute compliance assistance information.
- There was general agreement that compliance assistance tools should be Web enabled and downloadable in order to reach the small business community most effectively.
- Educational materials, such as catchy brochures with humor and cartoons, were suggested to foster compliance assistance in the small business community.
- There was general agreement that a peer review, whereby sector inspectors evaluate facilities for compliance assistance rather than enforcement issues, would be very effective. This can be done voluntarily by the sector. Developing grants to fund such voluntary peer reviews also was discussed.
- It was suggested that an expert system be developed to train small businesses on the environmental impact that they can have through compliance.

What type of delivery mechanisms work best for getting compliance assistance tools to small businesses and small communities?

- It was noted that small businesses are not the same as small communities. The financial incentives for the two are different and the means for reaching out to the two groups needs to focus on these individual needs. As an example, it was cited that small businesses have many more time constraints placed on them than did small communities.
- It was felt that third party, independent, non-regulatory compliance assistance providers were most effective in bringing compliance assistance information and resources to both small businesses and small communities. They are particularly effective, given the distrust with which small businesses, in particular, often view regulators.
- Trade associations were heavily favored by the group to aid in information dissemination.
- Several participants discussed using Web-based information to address sector-specific concerns. Suppliers/vendors also were mentioned as a good delivery mechanism.
- Mass mailings were identified as an effective delivery mechanism. It was recommended that to be most effective, the mailings be addressed to a specific person and signed by a person in a ranked position.
- Various participants suggested using free advertising, offered by free industry trade journals, to deliver compliance and regulatory information.

- A participant suggested developing a “community service requirement” as part of a Supplemental Environmental Project (SEP) whereby companies that have had compliance actions taken against them would be required, as part of the settlement, to train other companies within that sector in compliance requirements and activities.
- It was suggested that compliance providers seek out small business owners and operators at places where these individuals go to have fun. For example, one provider set up an aquifer tank model (to demonstrate the impact a spill can have on ground water/drinking water supplies) at a auto racetrack where locals go for entertainment.
- It was suggested that vocational technical schools would be a good place to reach small businesses.
- Hotlines were recommended to answer compliance questions and disseminate information.

What role can efforts like pollution prevention, audits, environmental management systems, and mentoring play in compliance assistance strategy for small businesses and small communities?

- Several participants noted that pollution prevention programs (P2) often are not effective for small businesses. It is difficult to articulate the cost of P2 to the small business community. Often, P2 technologies are not appropriate for small business as they can represent expensive, long-term solutions.
- P2 can be marketed more easily to medium- and large-size businesses. Participants discussed the importance of couching P2 methods in terms of compliance and economic benefits. The example given was from the printing industry, where printers were shifting to digital printing (P2) measures, but the benefits were couched in terms of an economic benefit rather than the environmental benefit to small business community.
- There was general consensus that a cookie cutter approach to any of these compliance assistance activities will not work. Each approach needs to be tailored to the needs of the sector that is being targeted.
- Several participants noted that consideration of the special compliance assistance needs of Brownfields properties is necessary to ensure that these properties do not revert back to being Brownfields.
- There was general discussion involving the benefit of lumping compliance assistance, P2, and environmental management systems under an umbrella program of environmental assistance, which provides a better and more complete representation of compliance needs and resources to the business community as a whole.
- It was suggested that both Resource Conservation and Recovery Act (RCRA) and OSHA regulations be addressed within a comprehensive compliance assistance program for small businesses and small communities because these entities often does not distinguish between the two.

Session II: Strategies for Meeting Compliance Assistance Needs of Large Industrial Facilities

The purpose of the session was to identify issues/opportunities and/or provide suggestions on how to use compliance assistance to improve compliance and achieve superior environmental performance at larger industrial facilities. The facilitator for the session was Pat Tallarico of the Marasco Newton Group.

Wilma Subra of the Louisiana Environmental Action Network explained that EPA should be called in to do what state and local officials should be doing. She cited the lack of political will and incentives on the part of the state and local government to enforce the law. This, in turn, leads to a lack of incentives on the part of individual facilities to participate in compliance assistance initiatives. Ms. Subra further explained that communities often have to assume the role of identifying noncompliance and working to improve what compliance there is. Hence, there is a need for regulatory agencies and industries to work with communities to improve compliance in large industrial facilities.

She presented a list of issues that the community in her area has helped state and federal agencies and industries identify, including;

- Frequent accidental releases and upset conditions;
- Lack of effective ambient air monitoring;
- Fugitive emissions; and
- Excess flaring.

Ms. Subra then presented her thoughts on what citizens need to do to be a more effective tool for compliance assistance.

- They need to work with regulatory agencies to better understand the regulatory process.
- They need to participate on an educated level in the development of appropriate compliance assistance documents and services.
- They need to gain access to information generated by the facilities when evaluating compliance.
- They need to obtain technical assistance in interpreting the data and formulating strategies for compliance assistance.

Berry Feldman of EPA Region 6 and Randy Armstrong of Shell Chemical discussed the “Voluntary Episodic Release Reduction Initiative,” which is a voluntary partnership between industry, states, and EPA to reduce unpermitted air releases. The regulatory agencies were motivated to pursue a voluntary compliance assistance approach because of the unclear regulatory aspect of the releases and because they felt they could get results faster than by pursuing enforcement actions. Industry was motivated to participate to avoid potential fines and to save money by conserving product by avoiding releases.

Mr. Feldman described the four steps involved in the project, which included:

- Identify, analyze, and share causes that contribute to releases;
- Share “best” practices and programs currently in place;

- Analyze effectiveness of programs and practices and identify gaps; and
- Prepare and publish findings report.

Mr. Armstrong then described why the project was successful. The factors he mentioned included:

- Management commitment;
- Clear purpose;
- Measurable performance with tracking;
- Willingness to focus on long-term performance;
- Performance-based expectations versus prescriptive measures;
- Facility ownership for the success of the program;
- Regular review of progress;
- Fact-based analysis;
- A focus on high impact areas-common issues;
- Involvement of the “right people;” and
- Structured workshops.

One of the remaining challenges Mr. Armstrong noted was how to share what they have learned with others.

Richard Rasmussen of the Virginia Department of Environmental Quality gave a presentation titled, “Compliance Assistance for Medium and Large Facilities.” In his presentation, he explained that in terms of providing compliance assistance, size may not be a critical factor. Although under Virginia’s pollution prevention program, compliance assistance is designed to help those that lack adequate technological capabilities, they really do not make this distinction by size—when someone needs assistance, the state gets involved.

The remainder of Mr. Rasmussen’s presentation followed the key questions for the session. Each question and Virginia’s perspective on those questions is listed below.

Where does compliance assistance fit into the environmental strategies of the larger industrial facilities?

- Interpreting regulations (this is a large issue);
- Learning about the performance of other facilities, which fosters competition and fuels compliance assistance;
- Assisting facilities to reduce the number of permitted emissions sources; and
- Assisting facilities with prioritizing tasks that have difficulty maintaining compliance.

What role can EPA play in encouraging maximum environmental performance?

- Explaining and documenting the relationship between maximum environmental performance and improved profits;

- Establishing a policy of regulatory flexibility for facilities that go beyond compliance;
- Providing flexibility for facilities willing to conduct comprehensive investigations of their emissions and being flexible on a case-by-case basis where regulations constrain the facility; and
- Facilitating the search for alternative applications for facility waste streams and provide technical information, not dictate.

What are examples of success?

- Implementation of pollution prevention initiatives using a team;
- Wide communication of environmental health and safety (EHS) material; and
- Implementation of environmental management systems (EMS)

Following the presentations, the participants participated in a question and answer session, which has been summarized below:

How do citizens get involved in EMS and how can citizen's priorities be heard and acted upon?

Randy Armstrong recommended focusing on the people who have control. If you can break into their priorities, you can get them to expand their thinking about compliance topics.

How do you overcome corporate policies on capital costs?

Mr. Armstrong noted that there is a cost to everything. Whenever a flare goes off, it costs money and if you can reduce it, that's an avoided cost of an EPA fine and avoided costs associated with lost product. Corporate people help you define what "license to operate" is and how it influences the amount of money that EPA has to spend at a location on our license to operate.

How much effort does it take to get people involved in community-based compliance assistance efforts, and is your community satisfied?

Ms. Subra explained that communities call her, so they are already involved. Communities have initiatives and although they are not completely satisfied in long-term results, they are satisfied with small increments as long as it is going somewhere.

Did you use an outside third party facilitator to manage your meetings?

No. We facilitated the meetings internally.

At the end of the session, the facilitator polled the audience to find out if people agreed with the statement that EPA and state agencies should not spend their resources on large industrial facilities. This statement was made at the beginning of the Forum by an audience member. One person in the room indicated that they agreed with that statement.

Session III: Strategies for Meeting Compliance Assistance Needs of Public and Private Institutions

The purpose of the session was to discuss compliance assistance tools that work best in institutional or systems such as hospitals, municipalities, and federal facilities. The session coordinator was Richard Satterfield, of EPA's Office of Compliance. The facilitator for the session was Don Greenstein of the Marasco Newton Group.

The first panelist to speak was Marie Muller of EPA's Federal Facilities Enforcement Office. In her presentation, Ms. Muller highlighted the challenges to compliance assistance with federal facilities such as a large, diverse structure, multiple sectors, with vast geographical locations, institutional culture, and unique regulatory considerations. The challenges are many. Ms. Muller suggested some implementation mechanisms that assist in reducing the issues:

- Meetings;
- Empowerment;
- Information exchange;
- Status reports; and
- Integration via appropriate processes.

Ms. Muller noted that in designing a compliance assistance program, one must have a strong knowledge of the institution, its organizational structures, the institutional culture, the chain of command, any external considerations, the institutions budget cycles, and the enablers/disablers. She has created her own toolbox consisting of workgroup meetings, regular publications, virtual compliance assistance, electronic newsletters, targeted outreach, and environmental compliance status reports circulated throughout the institution.

The second panelist was Harry Gregori, Jr., of the Virginia Department of Environmental Quality. Mr. Gregori spoke about an organized approach to the management of compliance assistance programs through the use of environmental management systems. He suggested that these systems should be designed to meet the needs of the city or industry they are being used in. The tools Mr. Gregori found useful in developing the compliance assistance programs he's been involved with include:

- Assessment without penalty (performance assessments);
- One- to two-day training on new initiatives;
- Templates; and
- Checklists in plain English for requirements/regulations.

The third panelist was Kimberly Dalton-Ferris of State University of New York. Ms. Dalton-Ferris discussed compliance assistance programs for colleges and universities. Ms. Dalton-Ferris highlighted the importance of campus involvement in environmental stewardship. Colleges and universities are, in most cases, out of compliance with environmental regulations because they are not aware of the regulations and because the groups that influence them the most – accrediting companies and grants, do not emphasize the importance of environmental protection and regulations. Ms. Dalton-Ferris stressed the need to convey information about

campus environmental compliance. She also identified two needs of the colleges and universities: reference manuals and management best practices.

The final panelist to speak was Kathleen Malone of EPA Region 2. Ms. Malone discussed the healthcare initiative in Region 2. This initiative was the result of the healthcare industries accumulation of bio-accumulative toxics. These institutions generate a wide variety of hazardous waste, producing two million tons of solid waste, and compliance problems are routine at hospitals. The strategy EPA used to address this problem:

- Notify medical facilities of the intent to target their sector for inspections;
- Establish a window for self-audits/corporate audit agreements;
- Provide compliance assistance regarding environmental regulations; and
- Promote pollution prevention and environmental management systems.

Following the presentations, there were questions to the panelists from the audience. The questions and answers follow:

Do universities have Environmental Management Systems (to Ms. Kimberly Dalton-Ferris) ?

The University of Louisiana is putting in the first environmental management systems (EMSs). Region 1 is working on a guide for colleges and universities. The key is to start small, learn and share the information.

How do you involve those constituents?

Try to engage doctors and researchers in focus groups. It is also useful to involve communities in the EMS through public forums. Outreach is important; it might be good to develop a curriculum for training the public on environmental regulations. The compliance assistance providers and regulators from the state and federal governments should be leaders in providing and sharing information with the public.

EPA use of the self-audit policy is not practical for campuses. Will there be self-critical evaluations to lengthen that time?

It is necessary to work with EPA region representatives to gain extensions. The regulator benefits because the inspector cannot do the inspections very quickly. Administrators want to know that there is zero risk before they agree to an audit.

Do universities talk among themselves?

Yes, but not all campuses have environmental compliance institutions. We are putting common violations on the Web so that colleges can see what we are finding. Campus Ecology is doing a survey for campuses at three levels about environmental performance. It might be useful to implement policies where EPA agrees to a no inspection policy while a voluntary audit is being processed.

The group then addressed the objectives of the session as a whole. The information provided below reflects attendees' answers to the questions.

What tools work best for public/private institutions?

- Compliance assistance visits without penalty – environmental management review by EPA.
- Call centers and newsletters for small local governments which do not have access to technology.
- Templates and checklists written in plain English for industry.
- Definitions that are consistent and understandable throughout the Public Institutions and EPA.
- Training sessions for the Institution's key environmental personnel.
- Conferences involving the Institutions and EPA for discussions about better ways to work effectively together.
- Encouragement of self-audits and using them as educational tools for the public institution community.
- On-line sharing of information between Institutions—reflecting creative methods to use compliance assistance.

CONCURRENT SESSIONS: Focusing Compliance Assistance Resources to Address Industry Needs 3:30 – 5:15 March 8, 2001***Session I: Identifying and Targeting Emerging Sectors for Compliance Assistance***

The stated goal of the session was to identify issues and opportunities and/or provide suggestions to EPA on methods to identify emerging environmental issues or sectors and the associated compliance assistance delivery systems to cope with the issues. The session coordinators were Mr. Walter Derieux and John Mason, both of EPA's Office of Compliance. The facilitator for the session was Mr. Don Greenstein of the Marasco Newton Group.

Ms. Karen Leff of EPA's Office of Enforcement and Compliance Assurance addressed the group briefly about how EPA selects sectors for compliance assistance centers. There are ten centers, primarily Web-based. The information on these sites was developed through a partnership with industries in the sector. The following criteria was used in the selection process:

- Large impact on human health;
- Compliance information;
- Populated with small businesses;
- New (environmental) regulations;
- Minority-owned businesses; and
- No compliance assistance programs.

Mr. Derieux shared the status of work underway by the Science Assessment Integration Branchks team and some key ideas about emerging issues and sectors. He noted three components to a process addressing emerging issues, which were to: identify the emerging issue, fix any problems, and then measure results.

To identify emerging issues or sector areas, Mr. Derieux suggested using traditional and non-traditional information. Another idea was to custom tailor solutions to address the sector needs. Measurements can be enhanced through the use of traditional multi-media and non-traditional sector baselines in an effort to measure changes.

The first panelist to speak was Michael Wilson of the Automotive Recyclers Association (ARA). Mr. Wilson presented an overview on the automotive recyclers industry. The ARA has over 1,300 members spanning 14 countries worldwide and the association has been in existence for over 58 years. Automotive recyclers dismantle over 11 million "end-of-life" motor vehicles each year in the U.S. Times are changing in the automotive industry with consolidation, European Union's End of Life Vehicle Directive, and heightened environmental concerns. The ARA Certified Automotive Recycler (CAR) Program encourages general business standards, safety standards, and environmental standards.

The second panelist was Sam Coleman of the Compliance Assurance and Enforcement Division for EPA Region 6. Mr. Coleman focused on techniques and methodologies to identify emerging sectors. Mr. Coleman identified four keys to success: identify, target, implement, and measure.

Mr. Coleman stressed the importance behind developing a program to solve the reasons industry was not complying with regulations. Mr. Coleman also noted that the measurement of compliance assistance activities should incorporate a thorough understanding of the baseline and conducting annual evaluations of impact efforts.

The third panelist to speak was Michael Barrette, of EPA's Office of Compliance. Mr. Barrette noted the significant data gaps in emerging sectors. Specifically, on-line tracking systems used to see compliance inspection records are not complete for emerging sectors. The regulatory community needs to focus on identifying these problems by documenting trends and developing pilot programs. Additionally, Mr. Barrette highlighted the need to obtain data from the field to further develop emerging sectors compliance assistance programs.

The final joint panelists to speak were Sonia Altieri of EPA's Office of the Administrator and Mr. Richard Sustich of the Metropolitan Water Reclamation District of Greater Chicago. Ms. Altieri highlighted the visionary design of identifying emerging sectors. Specific questions to consider are:

- What are the environmental challenges?
- What information is needed?
- What will impact EPA?
- What unforeseen issues will impact EPA?

Mr. Sustich briefly spoke about some challenges in the global environment affecting emerging sectors:

- Population growth;
- Natural resources depletion;
- Development of science and technology;
- Information technology;
- World commerce; and
- Political/social evolution.

The group then addressed the objectives of the session as a whole. The information provided below reflects answers to questions raised.

What are some effective techniques for identifying emerging sectors?

- Look at a complaint system to analyze trends and extrapolate;
- Use GIS and release data to identify pollution in a particular area;
- Look at future regulatory rules; and
- Look at ambient conditions, i.e. compliance, loads, environmental issues.

How do we deal with sectors that EPA has no regulatory authority?

- Identify the problem and get the legislative system to look at it;
- Develop innovative ways to deal with the problem; and
- Use education and marketing to deliver the message.
-

What are the impediments to effectively identify appropriate compliance assistance for emerging sectors?

- The Internet is not necessarily the answer because not everyone has access, i.e. unsophisticated industries or new businesses;
- Use paper handouts;
- Tailor information/information delivery to the audience;
- Secrecy of trade issues; and
- Build on the positives and becoming partners.

Session II: Creatively Leveraging of Resources for Compliance Assistance

The purpose of the session was to discuss the funding opportunities and resources available to provide compliance assistance to the regulated community, to identify better methods for disseminating this information, and to examine obstacles to obtaining available resources. The facilitator for the session was Doug Sarno of The Perspectives Group.

The first panelist to speak was Robert Barkanic of the Pennsylvania Department of Environmental Protection (DEP). He discussed the following:

- Methods the Pennsylvania DEP utilized for leveraging compliance assistance program funding, namely, partnering with other state organizations such as the Department of Energy;
- Working to develop the Pennsylvania Environmental Assistance Network;
- Funding non-regulatory voluntary audit site visits;
- Establishing a grants programs; and
- Identifying obstacles and challenges that the department faced in gaining leveraged funds, which included a lack of awareness regarding the compliance issues, distrust on the part of industry toward the regulatory community, and a difficulty in defining measures for determining the success of existing compliance programs.

The second panelist was Karen Brandt of the Maryland Center for Environmental Training at the College of Southern Maryland. She discussed the following:

- The Center's goal to provide non-regulatory environmental training, technical assistance, and outreach to local governments and waste water operators to assist these entities in achieving, maintaining, and striving beyond existing compliance levels.
- Funding for the Center, which comes from the State of Maryland, with leveraging provided by trade associations.

The third panelist was James Conrad, who represented the American Chemistry Council (ACC). He discussed the following:

- Various joint EPA and ACC projects, such as the Industrial Process Refrigeration Leak Program and RCRA Subpart CC;
- The benefits of such joint activities in terms of improved resources, funding, and distribution methods; and
- The success the ACC has had in leveraging support from member facilities on compliance assistance activities, particularly in developing rule guidance in terminology common to their industry.

The final panelist to speak was Janet Viniski of EPA, Region 3. She outlined the \$25 million EPA compliance assistance budget and discussed a range of possible compliance assistance resources:

- Partnering Compliance Assistance Projects with the Enforcement Program—She discussed how a college intern was paid using enforcement funds to study the outcome of an EPA compliance assistance outreach, self-audit, and enforcement initiative.

- Partnering with professional organizations—She discussed how EPA partnered with universities to develop compliance assistance workshops, whereby EPA provided speakers and the universities organized and hosted the event.
- Grant—She explained how compliance assistance programs could take advantage of the numerous federal, local, and regional grants by teaming with others on related issues such as pollution prevention, environmental education, and environmental justice.
- Enforcement Actions—She discussed how facilities can reduce penalties in legal settlements by agreeing to pay for and provide compliance assistance training to others.

She suggested that compliance assistance providers be prepared when funding opportunities arise by developing compliance assistance proposals in advance, establishing partnerships with other organizations and identifying measurable outcomes.

Following the presentations, there were no questions from the audience. The participants then broke into discussion groups to brainstorm methods for finding sources of funding and removing obstacles to obtaining resources and to develop suggestions for EPA on the best methods for disseminating information on funding. The participants addressed the following questions:

What are some of the obstacles to obtaining compliance/technical assistance funds?

- There was general consensus among participants that one of the main obstacles in obtaining funding was simply identifying available funding sources.
- Trade associations are not sure how to approach EPA about partnering on developing sector specific materials, Web sites, etc.
- There was discussion that it was necessary to ensure that sufficient funding is available to sustain ongoing compliance assistance projects, not just funding for innovative programs.
- There was discussion that the amount of grant money available was often insufficient to develop a project and, therefore, it was not worthwhile to apply for such grants.
- For EPA regions, obtaining project officers for grants can be a problem.

What are some suggestions for EPA on addressing these issues?

- Participants suggested that an electronic bulletin board be developed for compliance assistance providers to allow them to share information on available grant and funding resources.
- A link to grant information should be considered for EPA's National Compliance Assistance Clearinghouse.
- EPA should consider developing tips for organizations that simply want to partner with EPA on developing sector specific information, but are not asking for funding

Session III: Partnering with Community Groups and Compliance Assistance Providers

The purpose of the session was to increase compliance assistance providers' awareness of the need for partnering with community groups to provide education and information and to enable such groups to participate in the development and evaluation of the effectiveness of environmental compliance assistance programs.

Lenny Siegel of the Center for Public Environmental Oversight opened the session with a question for everyone to think about, "Under what circumstances do community groups accept compliance assistance rather than enforcement as a means of achieving compliance or improved environmental performance by industry and government?" He then introduced the panelists.

The second panelist to speak was Brian Livingston of the Minnesota Pollution Control Agency. Mr. Livingston is the Print Step Coordinator for the agency and began by discussing the Printers Simplified Total Environmental Partnership (Print Step) program. It is a voluntary program where six industry sectors were asked to come up with a cleaner, smarter, and cheaper way of regulating. There are four pillars of the Print Step program: regulatory simplification, operational flexibility, pollution prevention, and public involvement. Mr. Livingston focused on the public involvement aspect of the Print Step program. One of the purposes of Print Step is to empower communities to get involved in permit decisions. Each state is required to put together a stakeholder advisory's group and EPA provides each state with three handbooks. There is a handbook that provides states with guidance, there is a compliance assistance handbook, and there is a community handbook discussing the Print Step program with the printing industry. This information is available on-line.

Mr. Livingston noted a number of benefits from the program, including:

- Benefits for the community by getting involved and acquiring a better understanding of the printing industry and enhanced notification about environmental issues; and
- Benefits for the printer by fostering good public relations and reducing the delays in permitting process by addressing these issues with their communities prior to applying for the permit.

The third panelist to speak was Wilma Subra of the Louisiana Environmental Action Network. Ms. Subra explained that communities are the recipients of noncompliance and in many instances, regulatory agencies are not willing to enforce compliance requirements. She explained that if one were to investigate an industry's compliance where there is no enforcement, one may find repeated noncompliance. She noted that without enforcement, there will be no compliance and compliance assistance will be ineffective. Ms. Subra cited a number of examples of noncompliance identified through community monitoring. Ms. Subra then mentioned a number of things that communities could do play a role in compliance assistance:

- Communities need to work with regulatory agencies to better understand the agency process.
- Communities need to participate on an educated level to develop appropriate Compliance assistance documents.

- Communities need to gain access to information generated by the facility.
- Communities need technical assistance to participate.

George Chmael of the Chesapeake Bay Foundation explained that the Foundation is lacking in its ability to get involved with communities, yet, has instituted a community (urban) outreach program to get communities involved in establishing good communication and foster partnerships with industry. The goal of this initiative is to give people the tools to get involved and in some cases avoid the adverse consequences to their communities and environment. Currently, the Foundation is introducing environmental justice to the Maryland General Assembly and sees the challenge of making legislators understand the problems associated with environmental justice. Mr. Chmael further explained that enforcement is the key to compliance and drives industry to the table and helps to keep people on their toes especially in protecting our natural resources.

Lenny Siegel discussed the Clean Safe Bay initiative that focuses on heavy metal contamination derived from the electronics industry. The Clean Safe Bay's focus was aimed toward the publicly owned treatment works that had releases that were at high enough levels to cause concern. Community groups took legal action against the publicly-owned treatment works and politically worked on others to get agreements to promote pollution prevention in metal finishing industries. Thus, the solution was a program that provided technical and financial assistance to these companies, but retained enforceable requirements. This program also provides technical and financial assistance to community groups who are trying to enforce this program, which is critical.

Mr. Siegel further explained that environmental protection is not the enemy of industrial retention but the tool for industrial retention as communities begin to support industry. Hence, the ecosystem is recovering as a result of this program based on enforcement and enforceable requirements. The lessons that he noted from this experience were:

- The public will embrace compliance assistance when it involves pollution prevention;
- The public has an important role in pollution prevention and compliance assistance; and
- Compliance assistance is not voluntary environmental performance.

Following the presentations, there was a question and answer session. The resulting discussion is summarized below:

In the situation that Ms. Subra described in Louisiana, participants asked if anyone told citizens about their legal rights?

Ms. Subra explained that they understood the legal recourse. However, most people just wanted the problem fixed in a timely way and chose a non-regulatory approach.

When will the task force on environmental justice (in Maryland) be instituted?

The Maryland State Government will release an Executive Order in reference to the Task Force.

What lessons have you learned in initiating your grassroots efforts in Maryland?

Dr. Chmael indicated that the Foundation has found that working through faith-based organizations, local employers and unions is the more effective way to get information out. They also attended local events and visited schools to identify community leaders that would play a key role in outreach efforts. Mr. Siegel added that people will get involved in issues that impact them, so it is important for them to understand how an issue impacts them and how they can get involved.

How can the government more effectively reach out to impacted communities?

Identifying high contamination brings people to the table and gets people involved early so they can play a constructive role, the panel stated. Produce a Community Impact Assessment prior to writing a proposal to involve communities and determine the concerns of the community up-front. Communities can be your ally in getting more funds.

Why has noncompliance continued?

There are constraints within the system at every level, especially resources constraints. The group agreed that community groups can provide an impetus for people to do something, but communities have to know exactly what they want, and have to be willing to get involved.

How can EPA partner with community groups?

Such a change is difficult without statutory requirements, and such requirements are not likely. The group agreed that this should be a topic addressed at future forums and other similar events. A group of participants from the session expressed interest in staying informed about progress on this issue.

CLOSING PLENARIES March 9, 2001

Industry Innovations in Compliance Assistance and Environmental Performance

Hank Habicht, III, of the Global Environment and Technology Foundation (GETF) discussed the evolution of and guiding principles for compliance assistance. Mr. Habicht highlighted that there are many blueprints for the next generation of environmental protection with re-occurring themes. One of these themes is the new role of enforcement. Enforcement will always play a critical role in compliance assistance and is reliant upon solid information. Enforcement is important because it provides a level playing field in the arena of environmental protection and sends a message to industry that compliance is critical.

Mr. Habicht noted that the Global Environment and Technology Foundation focuses on three areas of compliance assistance:

- Partnership development;
- Technology deployment; and
- Information network.

The guiding principles that drive compliance assistance are:

- Improving environmental performance;
- Investing in the customer;
- Weaving the threads together;
- Fighting compartmentalization; and
- Celebrating success.

Sector targeting within environmental protection is a growing trend and requires industry-wide reductions. In addition, the environmental management systems (EMS) initiative for government entities is a mechanism to internalize the environment within industry with an outcome of a new model of intergovernmental cooperation. The challenges to environmental compliance are:

- Common measures of success;
- Presenting a seamless face to industry;
- Assistance-enforcement symbiosis;
- Using technology to leverage resources; and
- Internalizing the environment as a core value inside business.

Following Mr. Habicht's presentation, there was a question and answer session with Forum participants. The outcome is presented below:

Are other countries moving in the same direction or are they already there?

In regards to enforcement, we are ahead. However, in European countries, collaboration occurs when rules are being developed. This type of collaboration and negotiation is a process from which we can learn.

What does GETF do?

We help to bridge the gap between government and industry. We also build technology and develop new approaches for information exchange. GETF works to give our clients the tools to promote the sustainability of these relationships between government and industry.

Would you support public involvement with compliance assistance activities?

Yes, but information needs to be more accessible and understandable. It should be put in the context of “here is what we know, here is what we don’t know.”

What are your recommendations to regulating agencies to help small businesses adopt environmental management systems?

Understand the environment in which small businesses work, develop broadly applicable approaches, use community colleges because they have access to a network of institutions, and understand cultural and inter-generational issues.

How should EPA overcome compartmentalization?

Go to Congress and engage in this discussion. Lay out the framework, do initiatives that are cross-functional, and show results.

Are ISO1400 and EMS too heavy on process?

Tied up on the language instead of focusing on progress. ISO1400 and EMS seems too complimentary. The natural step principle resonates with me, the terminology is large, we need to take what is in it and internalize it.

Making Compliance Assistance Work: A Partnership Success Story

Mark Saxonberg of Toyota Motor Sales USA, Inc., and Lirel Holt of the Coordinating Committee for Automotive Repair (CCAR) Greenlink presented their partnership success story as it related to compliance assistance.

Mr. Saxonberg highlighted the Environmental Assistance Network as a partnership with CCAR Greenlink. It is an on-line tool that provides regulations to help manage waste streams and lists service providers and private consultants to assist with environmental regulations. This partnership with Toyota and CCAR Greenlink encourages dealers to do self-audits of their waste stream.

Toyota’s commitment to the environment includes safety and environmental responsibility and establishes education and environmental support programs. There is a corporate-wide extranet connecting all dealers, that is used to disseminate information. The CCAR site provides a search engine for information on specific topics, is easy to use, and is convenient. This partnership

affords mutual benefits for both parties.

Mr. Holt discussed CCAR and the partnership success stories this center has enabled. CCAR is one of the ten not-for-profit centers supported by the EPA-Focus-Automotive and serves the automotive industry by providing information about environmental regulation. Mr. Holt highlighted that many automotive industries would like to be in compliance with EPA regulations but are not sure how. Mr. Holt emphasized that the CCAR Greenlink Web site is:

- Specific for the automotive industry;
- Readable;
- Links everywhere;
- Provides sortable information; and
- Provides “virtual” shops.

Mr. Holt discussed how CCAR bridges the gap between EPA and the end user through providing information. Mr. Holt also suggested that EPA take entrepreneurial steps to establish environmental regulations and compliance assistance.

Following the presentations, there was a question and answer session. The resulting discussion is summarized below:

Car dealers who have gasoline tanks on their premises are subject to Emergency Planning & Community Right-to-know Act (EPCRA) requirements? Is this on the Web site?

Car dealers, in general, probably aren’t aware of this regulation. Everyday we learn about what should be included on the web site. The gasoline issue needs to be in the next newsletter.

How does Toyota hold responsibility on part of the dealers?

We can’t require them to comply because they are independent business owners. However, they sign a contract saying that they can’t be involved in illegal activities. We would much rather help them to comply than take them out of business.

How can you incorporate the next step of environmental protection (e.g., EMS, ISO 1400)?

It is happening throughout the corporation on the operations side; however, it is difficult on the dealer side. We may be able to encourage it through a reward system.

Do you require suppliers to be ISO 1400 compliant?

Mr. Saxonberg was unsure, but felt that it was likely.

How did this EPA relationship get started?

It started in 1995 as an incentive to give the public electronic information by providing an on-line resource.

Practitioners Perspectives: The Next Generation of Compliance Assistance

The final session of the Compliance Assistance Providers Forum 2001 consisted of a panel of four compliance assistance providers. These providers offered their insights as to what is needed to advance the practice of compliance assistance in the future. The panel consisted of the following members:

- Amy Kohlhepp, Environmental Quality Analyst, Michigan Department of Environmental Quality;
- Rudy Cartier, Jr., Small Business Ombudsman, New Hampshire Department of Environmental Services;
- Susan Gilbert-Miller, Director of Environmental Services, Chicago Manufacturing Center; and
- Walt Tunnessen, Senior Director, Business and Environment Programs, National Environmental Education and Training Foundation.

Ms. Kohlhepp began the session by discussing three aspects of Michigan Department of Environmental Quality's compliance assistance program: sector guidebooks; partner identification and participation; and measured outcomes. Ms. Kohlhepp discussed the four sectors the DEQ partnered with, the tools that were used, and what the partners provided. The four sectors are:

- Vehicle service industry;
- Fabricare industry;
- Printing industry; and
- Manufacturers.

As a result of these partnerships, Ms. Kohlhelpp provided a "top ten" list of lessons learned regarding compliance assistance, which includes incorporating measures into the process and marketing from associations. The top ten list includes:

- Marketing from Associations is essential;
- Need buy-in from regulatory partners;
- Develop a sign-off procedure;
- We get better over time (start easy);
- Look ahead when selecting software;
- Updates are necessary and time consuming;
- Ask yourself if hard copies are realistic;
- One trade is much easier than a sector;
- Incorporate measures into the process; and
- Project takes 10 times longer than you imagine.

Mr. Cartier suggested that the next generation of environmental protection will involve a collaborative approach to multi-industry sector issues. Mr. Cartier sighted New Hampshire as an example (specifically, Operation Manchester) as a cooperative approach to a local issue—a higher asthma rate in an inner-city school. For this problem, a four-step approach was used, which included:

- A tiered system;
- Education and outreach;
- Technical assistance; and
- Enforcement.

Mr. Cartier also emphasized that the next generation includes multiple business sectors and partners to achieve the goal of increased quality of life.

Ms. Gilbert-Miller began her presentation by asking participants to imagine the evolution of the Earth as a movie. In that movie, she highlighted that for the entire existence of the planet, humans have only been around for a very small amount of time; however, within that period, our race has used a phenomenal amount of the planet's resources. Ms. Gilbert-Miller then discussed the Chicago Manufacturing Center awarding grants to states to support compliance assistance. Ms. Gilbert-Miller administered an informal survey of multiple extraction procedures (MEP) recipients asking about their environmental assistance network. A major percentage of these centers reported that their network is staff dependent. Ms. Gilbert-Miller highlighted specific considerations for technical partnering, which include the following:

- Are there overlapping services;
- Fee for services vs. pro bono partners;
- Organizational client retention; and
- Client confidentiality of record maintenance.

Mr. Tunnessen briefly presented principles for environmental performance. Mr. Tunnessen related environmental performance to the situational leadership model for managing high performance teams. Mr. Tunnessen highlighted four relationships and discussed the task behavior and performance associated with each of them. The results are as follows:

- Enforcement: unable and unwilling;
- Compliance Assistance: unable but willing;
- Challenge and Partnership Programs: able but unwilling; and
- Performance-Based System: able and willing.

Following the presentations from the panelists, there was a short question and answer period. The questions and their corresponding answers are summarized below:

Is there increasing complexity with greater number of partners?

It is easy to work with one regulated trade association but it becomes complex with the regulations because of the language in which they are written.

For the New Hampshire Department of Environmental Quality, have you looked at art supplies in the schools as a cause of the asthma?

The household waste collection activity within the DEQ is looking at that relationship.

Wrap-Up

Mr. Michael Stahl concluded the Compliance Assistance Providers Forum 2001 by highlighting some major points captured throughout the Forum. These points are:

- The relationship between compliance assistance and enforcement needs to be strengthened and assistance should have a mix of tools;
- There is anxiety in measuring outcomes, but there are signs that we are moving in the right direction; and
- There is fragmentation in the compliance assistance program that needs to be made as seamless as possible.